



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: March 20, 2009

TO: San Diego City Council

FROM: Helene Deisher, Development Project Manager-Development Services

SUBJECT: ITEM No. 331 – Project Appeal 8111 Camino Del Oro Tentative Map

Please see the attached **revised** Tentative Map Resolution for the above project. Changes are provided in "ALL CAPS" for convenience. The changes provided in the revised resolution reflect refined language for consistency between all referenced codes and do not contain any substantive changes to the requirements. See finding number 8 (Page 4) and condition number 11 (pages 8-9). There is one date correction. See Finding 11 (page 5). These changes were recommended by and coordinated with the City Attorneys' office.

CITY COUNCIL RESOLUTION NOXXX

TENTATIVE MAP NO. 538144

8111 CAMINO DEL ORO TENTATIVE MAP - PROJECT NO. 152137

DRAFT

WHEREAS, LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Applicant/Subdivider, and JOHN LEPPERT, LEPPERT ENGINEERING COMPANY, Engineer, submitted an application with the City of San Diego for a Tentative Map, No. 538144 to convert 17 existing residential units into 14 condominiums and to waive the requirement to underground existing overhead utilities. The project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The legal description of the property is Lots 8 and 9, Block 13, La Jolla Shores Unit No. 1, Map No. 1913; and

WHEREAS, the Map proposes the subdivision of a .30 acre site into one lot for a 14 unit residential condominium development; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301 (k), of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 14; and

WHEREAS, on February 5, 2009, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 538144 and Tentative Map No. 538143 pursuant to the Land Development Code of the City of San Diego and approved the project

WHEREAS, on February 9, 2009, Cory Briggs appealed the project to the City Council;
NOW THEREFORE

WHEREAS, on March 30, 2009, the City Council of the City of San Diego considered Tentative Map No. 538144, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0240 (underground) of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all

interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same;

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 538144

- 1. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).**

The proposed subdivision of an existing seventeen unit apartment complex to fourteen condominium ownership interests would comply with the development regulations of the underlying MF2 zone and all of the applicable development regulations of the Land Development Code. No deviation or variance is requested with this application. No construction is approved or requested with this application.

- 2. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).**

The proposed project is a subdivision of a seventeen unit apartment complex to fourteen condominium ownership interests. The project is located within the La Jolla Community Plan which designates the site for multifamily development. The proposed subdivision complies with the policies, goals, and objectives of the applicable land use plan. The existing development was previously approved and permitted pursuant to the zoning and development regulations at the time of construction. The project will reduce the number of dwelling units by three, therefore there is not increase in density or intensity with the conversion of apartment units to condominium ownership and therefore the project does not increase impacts to public services or fiscal or environmental resources.

- 3. Each of the tenants of the proposed condominium, project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66427.1(a)).**

A signed affidavit has been provided to the Development Services Department identifying each of the tenants of the proposed project and stating each tenant received, pursuant to State Map Action Section 66452.9, written notification of intention to convert. This notice was sent at least 60 days prior to filing for the map on October 7, 2008.

4. **The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).**

Condition No.8 of this Resolution requires that the Subdivider give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.

5. **The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).**

Condition No. 9 of this Resolution requires that the Subdivider give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request.

6. **The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(b)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.**

Condition No. 12 of this Resolution requires that the Subdivider must provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act. Further, if the subdivider chooses to provide affordable housing units, Condition 14 requires that the Subdivider enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.

7. **The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(c)).**

Condition No. 10 of this Resolution requires that the Subdivider give each of the tenants of the proposed condominium project 180 days' written notice of intention

to convert prior to termination of tenancy due to the conversion or proposed conversion.

8. **The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report.. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).**

The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided IN CONFORMANCE WITH SECTION 66427.1(D) OF THE SUBDIVISION MAP ACT AND SECTION 125.0431(A)(5) OF THE LAND DEVELOPMENT CODE. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).

9. **The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).**

This project is privately financed and no funds were obtained from a governmental agency to provide for elderly, disabled, or low income housing.

10. **For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (Land Development Code Section 125.0444.c).**

This project was not developed to provide housing for the elderly, disabled or to provide low income housing.

11. **Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).**

Condition No. 7(a) of this Resolution requires that each of the tenants of the proposed project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete. A Notice of Application which identifies the project location and describes the proposed conversion was mailed to each tenant on MARCH 28, 2008.

12. **The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).**

Condition 7(b) of this resolution requires that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete

13. **The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).**

Condition 16 of this resolution requires that the subdivider give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property.

14. **A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (Land Development Code Section 144.0504(b)).**

A Building Conditions Report has been prepared for this project by Greg L. Gavasse, P.E., of Land America in accordance with the Land Development Manual and reviewed for compliance with the Condominium Conversion Regulations.

15. **The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).**

Condition 17 of this resolution requires that the subdivider provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account

16. **The project has been conditioned that the subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).**

Condition 18 of this resolution requires that the subdivider provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion.

17. **The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.**

Conditions 19 through 22:

The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.

Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.

Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

18. **The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).**

Condition Number 13 includes the Affordable Housing conditions that would be required of this development to comply with the City of San Diego Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development

Code) by paying an in-lieu fee of \$124,635.12 (19752 square feet @6.31) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee

19. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 Underground Conversion of Utility Lines at Developers Expense in that:

- a. The conversion involves a short span of overhead facility (less than 600 feet in length).
- b. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.

The conversion involves a short span of overhead facility (less than 600 feet in length).

20. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

The above findings are supported by the administrative record for this project including all review documentation, maps and the Exhibit "A" drawing dated February 5, 2009.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 538144 including the waiver of the requirement to underground existing overhead utilities, is hereby granted to LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Tentative Map will expire March 30, 2012.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. Prior to the issuance of the Final Map, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition

5. The Final Map shall conform to the provisions of Coastal Development Permit No. 538143.
6. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against any Indemnified Party to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, and defends the action in good faith. Subdivider shall not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.
7. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
 - a. For existing tenants, within 10 days of the project application for the *condominium conversion* being deemed complete; or
 - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
8. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
9. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
10. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.
11. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially

offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(d) of the SUBDIVISION Map Act AND SECTION 125.0431(A)(5) OF THE LAND DEVELOPMENT CODE. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

12. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

AFFORDABLE HOUSING

13. Prior to recordation of the Final Map, the Subdivider shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by paying an in-lieu fee of \$124,635.12 dollars (19752 square feet at \$6.31 per square foot.) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee.
14. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Coastal Overlay Zone Affordable Housing Replacement Regulations (Chapter 14, Article 3, Division 8), to the satisfaction of the Development Services Department and the Housing Commission.
15. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
16. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
17. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).
18. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.

ENGINEERING

19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
21. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.
22. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

MAPPING

23. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
24. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
25. The Final Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

SEWER AND WATER

30. If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.

LANDSCAPE

31. Prior to recordation of the Parcel Map or Final Map, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.
32. Prior to recordation of the Parcel Map or Final Map, and after Landscape and Irrigation Construction Documents have been approved by Development Services, the subdivider shall install all required landscaping consistent with the approved plans and the Land Development Manual, Landscape Standards.
33. Prior to recordation of the Parcel Map or Final Map, it shall be the responsibility of the Permittee/Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
34. The Landscape Construction Plan shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

INFORMATION:

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal

Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).

- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SAN DIEGO,
CALIFORNIA, ON MARCH 30, 2009.

By

Helene Deisher
Development Project Manager
Development Services Department

Job Order No. 43-0512



THE CITY OF SAN DIEGO
MAYOR JERRY SANDERS

MEMORANDUM

DATE: February 5, 2009
TO: Planning Commission
FROM: Helene Deisher
SUBJECT: Item No. 7; PTS 152137- 8111 Camino Del Oro Tentative Map

Condition number 6 (page 4) of the Tentative Map has been replaced with the following language:

The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against any Indemnified Party to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, and defends the action in good faith. Subdivider shall not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.

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THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: January 29, 2009 **REPORT NO.** PC-09-001

ATTENTION: Planning Commission, Agenda of February 5, 2009

SUBJECT: 8111 CAMINO DEL ORO TENTATIVE MAP
PROJECT NO. 152137 - PROCESS FOUR

**OWNER/
APPLICANT:** La Jolla Beach and Tennis Club Partners, CLP

SUMMARY

Issue(s): Should the Planning Commission approve the conversion 17 residential units to 14 residential condominium units and waive the requirement to underground existing overhead utilities on a 0.30 acre site located at 8111 Camino Del Oro within the La Jolla Shores Planned District of the La Jolla Community Plan area?

Staff Recommendation:

1. **APPROVE** Coastal Development Permit No. 538144
2. **APPROVE** Tentative Map Waiver No. 538143
3. **APPROVE** the request to waive the requirements to underground existing utilities.

Community Planning Group Recommendation: On June 24, 2008, the La Jolla Shores Permit Review Committee voted 5-0-0 to approve the project with the reduction of units to fourteen, and to maintain twenty one parking spaces. On July 8, 2008, the La Jolla Shores Community Planning Association voted to accept the committee recommendation with a vote of 11-0-1 (Attachment)



Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15301 on March 28, 2008. An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on September 9, 2008 (R-304104). The scope of the subject hearing only includes the project, and not the environmental determination.

Fiscal Impact Statement: None with this action. All costs associated with this permit are paid by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: With the proposed conversion of 17 existing apartment units reduced to 14 condominium units, there would be loss of 17 rental units and a gain of 14 for sale units. This Tentative Map was deemed complete subsequent to February 7, 2004, and therefore is subject to the Inclusionary Housing requirements.

BACKGROUND

The La Jolla Community Plan designates the site for Multi-family Residential at 30-45 dwelling units per acre which would permit 9-14 units on this 0.30 acre site (Attachment). The 0.30 acre site has been developed with 17 units and has previously conforming rights to be maintained as such. The development site is located at 8111 Camino Del Oro in the MF-2 zone in the La Jolla Shores Planned District within the La Jolla Community Plan area. The site is surrounded by multi-family residential development.

The existing development was constructed in 1965 when the site was zoned R-4. At the time the property was developed the approved construction met all current regulations. The site is presently improved with one five story building containing a total of seventeen residential units; sixteen two bedroom and one, one bedroom unit. The original development provided nineteen parking spaces.

The development complied with the zoning and development regulations in effect at the time of construction. No Building or Zoning Code violations are recorded against the property. The project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code.

This Tentative Map project is subject to the current condominium conversion regulations and as proposed meets all the required regulations.

DISCUSSION**Project Description:**

The current application proposes a Tentative Map, a Coastal Development Permit and a waiver to underground existing overhead utilities to convert seventeen existing residential units to fourteen condominium units. Physical changes to the developed site are limited to internal *improvements in order to reduce the existing number of units from seventeen units to fourteen* two bedroom units. The final development will have six, two-bedroom units at 1,011 square feet, six, two-bedroom units at 1,458 square feet and two, two-bedroom units at 2,469 square feet. The existing onsite parking will also be modified to provide twenty one standard parking spaces for the development as required by the current condominium regulations. The reduction of the existing seventeen units to fourteen units occurred to comply with the existing parking regulations and to maintain the existing landscaping.

Section 125.0410 of the San Diego Municipal Code (SDMC) requires a Tentative Map (Attachment) be processed for the subdivision of land. According to SDMC §125.0440 and §125.0444, Findings for Tentative Maps and for Condominium Conversions, the decision-maker may approve a Tentative Map for the purposes of the conversion of residential property into a condominium project if the decision-maker finds the proposed conversion complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code. Section 126.0701 of the San Diego Municipal Code (SDMC) requires a Coastal Development Permit be processed for any development in the Coastal Zone. The subdivision of land is deemed to be development and a Coastal Development Permit is required. Staff has reviewed the proposed condominium conversion and determined it complies with both the Subdivision Map Act and San Diego Municipal Code.

San Diego Municipal Code Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights of way. City staff has determined the underground waiver request qualifies under the guidelines of Council Policy 600-25, *Underground Conversion of Utility Lines at the Developer's Expense*, in that the conversion is a requirement of a condominium conversion of an existing development and the conversion involves a short span of overhead facilities less than a full block in length, the conversion would represent an isolated undergrounding with a minimum probability of extension in the future, and the conversion would not represent a logical extension to an undergrounding facility. The applicant would be required to underground any new service run to any new or proposed structures within the subdivision per Condition Number 6 of the draft Tentative Map Resolution and Condition 11 of the Coastal Development Permit (Attachment).

Overhead utilities are present along the rear eastern property line with one existing power pole serving adjacent properties. Neighboring sites adjacent from the subject property receive electrical, telephone and/or cable service from these overhead lines. Undergrounding those services would disrupt properties not included in the proposed project. The City's

Undergrounding Master Plan for Fiscal Year 2007 designates the site within Block 1J, and that funding was allocated in 2006. Undergrounding is scheduled for the area June 29, 2009 through June 29, 2012. (Attachment).

The proposed condominium conversion is subject to the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). Prior to issuance of the final map, the project is conditioned to pay an in-lieu fee of \$124,635 (19752 square feet @\$6.31 per square foot) or enter into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee.


Conclusion:

Staff has reviewed the request for a Tentative Map, Coastal Development Permit and the waiver to underground existing overhead utilities for the conversion of seventeen residential units to fourteen condominium units and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating the requested approvals. Staff has provided draft findings to support approval of all actions and recommends approval of the project as proposed to the Planning Commission.

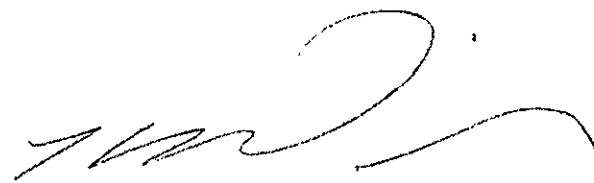
ALTERNATIVE

1. APPROVAL of Tentative Map No. 538144, Coastal Development Permit No. 538143 and the waiver of the requirement to underground existing adjacent utilities, with modifications.
2. DENIAL of Tentative Map No. 538144, Coastal Development Permit No. 538143 and the waiver of the requirement to underground existing adjacent utilities, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Helene Deisher
Project Manager
Development Services Department

BROUGHTON/HRD

000371

Attachments:

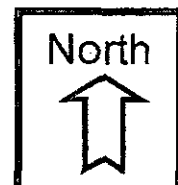
1. Aerial Photograph
2. Community Plan Land Use Map
3. Undergrounding Map
4. Project Data Sheet
5. Tentative/Vesting Tentative Map
6. Draft Map Conditions and Subdivision Resolution
7. Draft Permit with Conditions
8. Draft Permit Resolution with Findings
9. Community Planning Group and Permit Review Committee Recommendation
10. Ownership Disclosure Statement
11. Project Chronology
12. Building Conditions Report and Landscape Plan

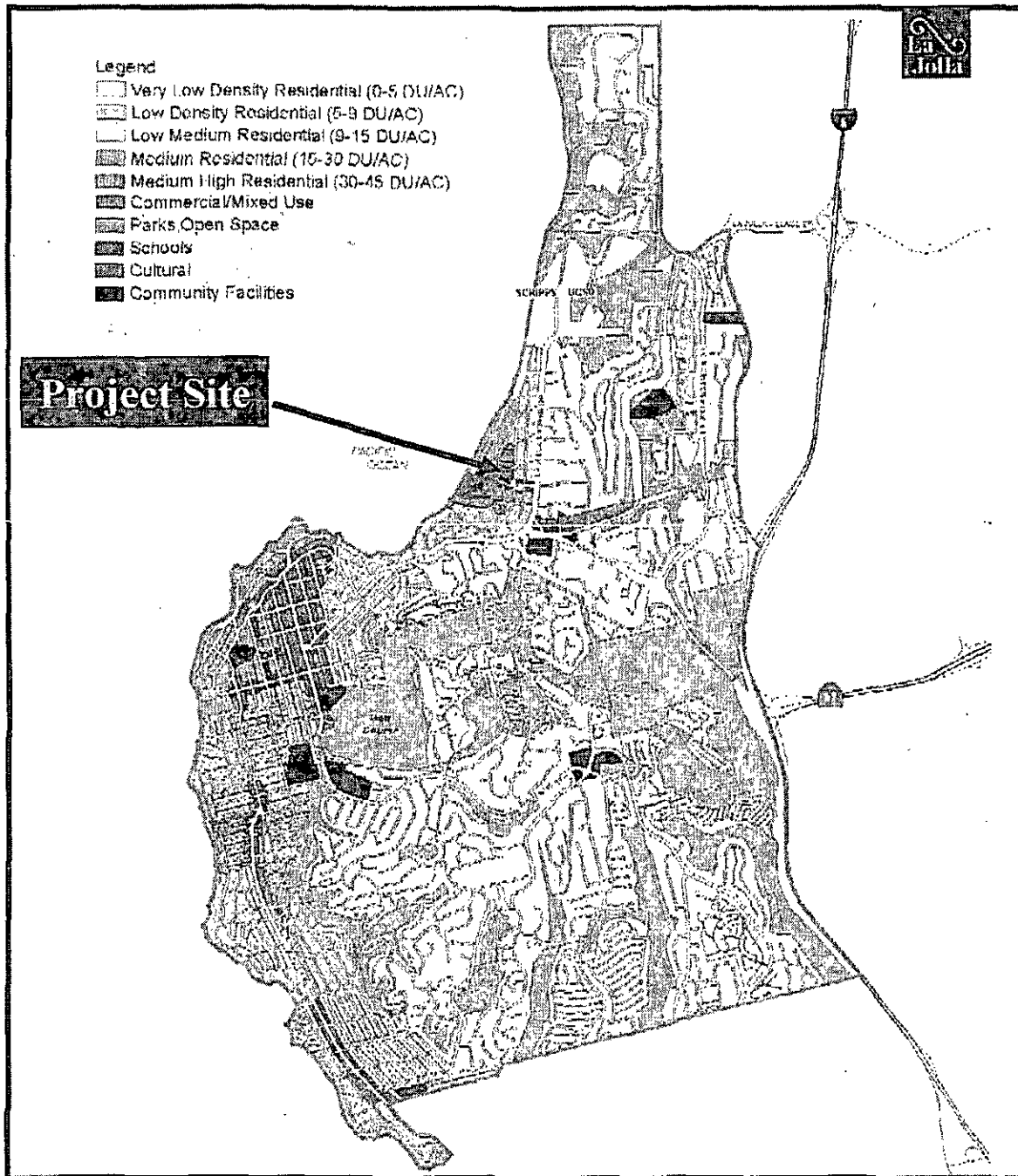


Aerial Map

8111 Camino Del Oro Tentative Map – PTS 152137

8111 Camino Del Oro





LA Jolla -Community Plan Land Use Map

8111 Camino Del Oro Tentative Map - PTS 152137

8111 Camino Del Oro

North



Utilities Undergrounding Mapping Application

Layers Legend Council Priorities Find Location Refresh Map Help

Identify Results

Council Districts
Council District: 1
Member Name: Scott Peters
Office Phone: (619) 236-6611

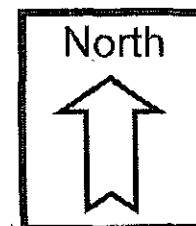
Utilities Undergrounding Projects
Project Name: Project Block 1J
Year Allocated: 2006
Project Start: Jun 29, 2009
Project End: Jun 29, 2012
Contact Person: Carol Drummond
Phone #: 6195333841
Email: undergrounding@s
Website: www.sandiego.gov
Council District: 1
Phase: Design

Project Block 1J



8111 Camino Del Oro Tentative Map – PTS 152137

8111 Camino Del Oro



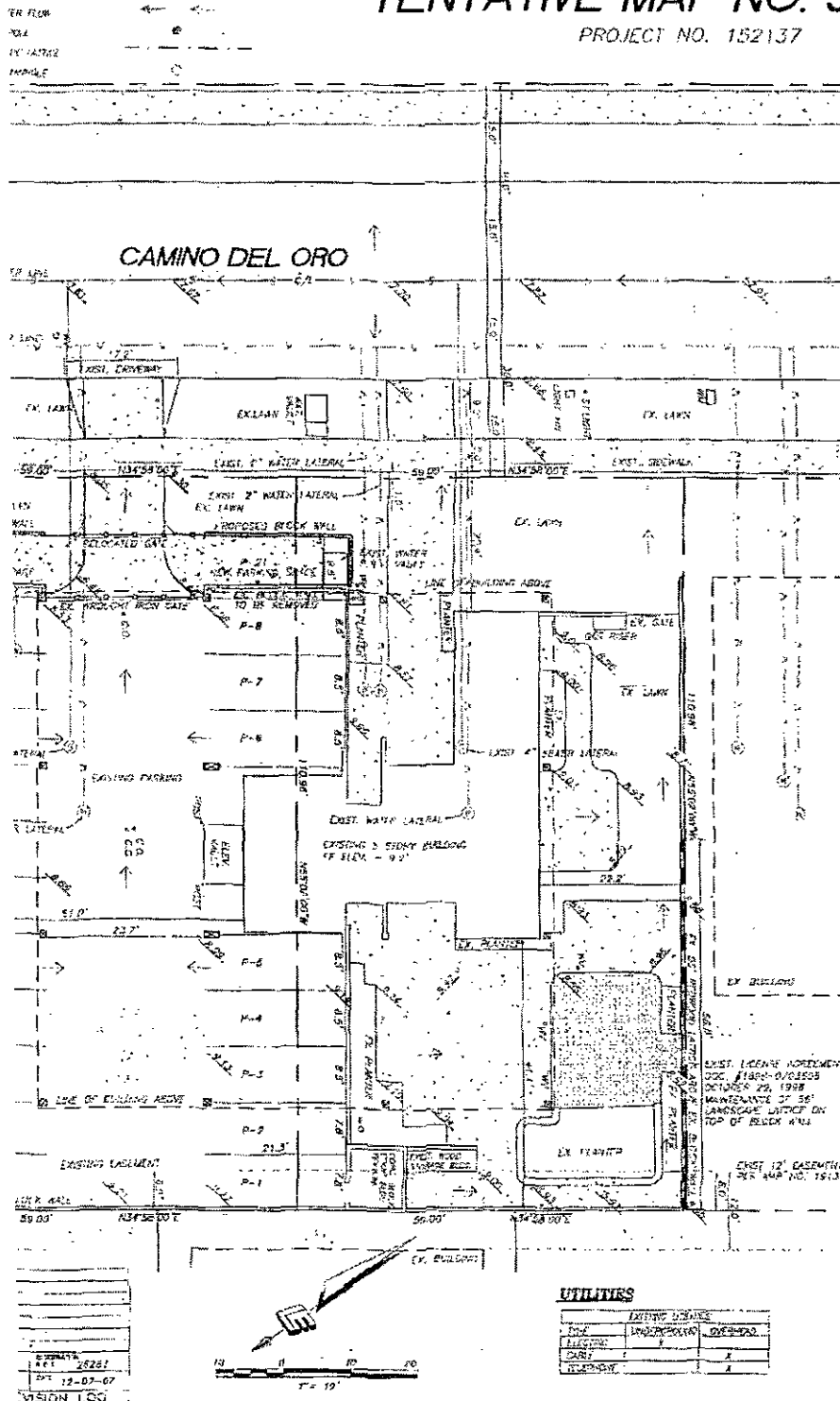
000379

PROJECT DATA SHEET FOR CONDOMINIUM CONVERSIONS

PROJECT NAME:	8111 Camino Del Oro			
PROJECT DESCRIPTION:	Conversion of 17 residential units to 14 condominium units and a waiver from the requirement to underground existing utilities.			
COMMUNITY PLAN AREA:	La Jolla			
DISCRETIONARY ACTIONS:	Tentative Map and utility underground waiver			
COMMUNITY PLAN LAND USE DESIGNATION:	Medium-high density 30-45 dwelling units per acre.			
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <u>CURRENT ZONING INFORMATION:</u> ZONE: MF-2: A multi-unit residential zone DENSITY: one unit per 1,000 HEIGHT LIMIT: 30 Feet LOT SIZE: .30 FRONT SETBACK: SIDE SETBACK: STREETSIDE SETBACK: REAR SETBACK: PARKING: 21 </td> <td style="width: 50%; vertical-align: top;"> <u>CONSTRUCTED:</u> R-4 NA NA .30 17.8 Ft. 20 Ft. NA 41 Ft. 21 </td> </tr> </table>			<u>CURRENT ZONING INFORMATION:</u> ZONE: MF-2: A multi-unit residential zone DENSITY: one unit per 1,000 HEIGHT LIMIT: 30 Feet LOT SIZE: .30 FRONT SETBACK: SIDE SETBACK: STREETSIDE SETBACK: REAR SETBACK: PARKING: 21	<u>CONSTRUCTED:</u> R-4 NA NA .30 17.8 Ft. 20 Ft. NA 41 Ft. 21
<u>CURRENT ZONING INFORMATION:</u> ZONE: MF-2: A multi-unit residential zone DENSITY: one unit per 1,000 HEIGHT LIMIT: 30 Feet LOT SIZE: .30 FRONT SETBACK: SIDE SETBACK: STREETSIDE SETBACK: REAR SETBACK: PARKING: 21	<u>CONSTRUCTED:</u> R-4 NA NA .30 17.8 Ft. 20 Ft. NA 41 Ft. 21			
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE		
	NORTH:	Multi-Family Residential; MF	Multi-Family	
	SOUTH:	Multi-Family Residential; MF	Multi-Family	
	EAST:	Multi-Family Residential; MF	Multi-Family	
	WEST:	Private Recreation	Recreation	
DEVIATIONS OR VARIANCES REQUESTED:	none			
COMMUNITY PLANNING GROUP RECOMMENDATION:	On June 24, 2008, the La Jolla Shores Permit Review Committee voted 5-0-0 to approve the project with the reduction of units to fourteen, and to maintain twenty one parking spaces. On July 8, 2008, the La Jolla Shores Community Planning Association voted to accept the committee recommendation with a vote of 11-0-1			

FLATA DE ORO CONDOMINIUMS TENTATIVE MAP NO. 538144

PROJECT NO. 152137



PRIOR DISCRETIONARY APPROVALS

NONE

CONDOMINIUM NOTES

THIS SUBDIVISION IS A CONDOMINIUM PROJECT AS DEFINED IN SECTION 1460 ET SEQ. OF THE CIVIL CODE OF THE STATE OF CALIFORNIA AND IS FILED PURSUANT TO THE SUBDIVISION MAP ACT. THE TOTAL NUMBER OF CONDOMINIUM INTERESTS IS 14. THE STRUCTURE WAS BUILT IN 1985.

EXISTING UTILITIES

1. A 12" WATER MAIN LINE PER CITY CWS, NO. 12079-D IN CAMINO DEL ORO.
2. 10" WATER MAIN LINE PER CITY CWS, NO. 12079-D IN CAMINO DEL ORO.

EASEMENTS

SHOWING 17' WIDE EASEMENT ALONG 100' EAST PROPERTY LINE PER MAP NO. 15813.

BOUNDARY

BOUNDARY IS CALCULATED PERIOD 1985 PER MAP NO. 15813.

TOPOGRAPHY SOURCE

FIELD SURVEY BY
DECEMBER 5, 2007

BENCHMARK

PRIMARY BENCHMARK
VALLEYVIEW & EL PASO CANAL, N.W. 1/4
ELEV. 12.831
DATE: NOVEMBER 1982

SITE AREA

GROSS AREA: 0.331 ACRES
NET AREA: 0.299 ACRES
TOTAL FLOOR PLAN AREA: 20,200 SQ. FT.
TOTAL BUILDING AREA: 24,125 SQ. FT.

TOPOGRAPHY BENCHMARK
AVENUE DE LA PLATA & EL PASO
CHANGE, ELEV.
RECORD ELEV.: 11.811
MEASURED ELEV.: 11.821
DATE: NOVEMBER 1982

RESIDENTIAL CONDOMINIUM STATISTICS

UNIT NO.	UNIT TYPE	APPROX. SQ. FT.
1	2-BRM	1,450
2	2-BRM	1,450
3	2-BRM	1,450
4	2-BRM	1,450
5	2-BRM	1,450
6	2-BRM	1,450
7	2-BRM	1,450
8	2-BRM	1,450
9	2-BRM	1,450
10	2-BRM	1,450
11	2-BRM	1,450
12	2-BRM	1,450
13	2-BRM	1,450
14	2-BRM	1,450

PARKING TABULATION

EXISTING PARKING REQUIRED		
TYPE	NO. SPOTS	SPACES
STANDARD	8,500	10
COMPACT	7,500	4
TOTAL EXIST. PARKING: 14 SPACES		
PROPOSED ADDITIONAL INCREASE		
TYPE	NO. SPOTS	SPACES
PARKING ADJUTANT BY POSTABLE ON TWO SIDES	3,218	7
TOTAL PARKING: 21 SPACES		

PARKING ANALYSIS PER CURRENT CODE

PURSUANT TO TABLE 143-05C OF THE LAND DEVELOPMENT CODE, AS A CONDOMINIUM CONVERSION IN THE TRADING IMPACT ZONE:

UNIT TYPE	NO. UNITS	DATE	REMARKS
2-BRM	14	12	2007

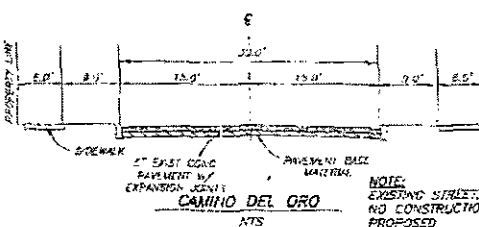
THE MINIMUM PARKING REQUIREMENTS, PER THE CURRENT CODE, ARE TO PROVIDE 21 PARKING SPACES.

BUILDING STATISTICS

FIRST FLOOR ELEVATION - MEAN LEVEL 8.5'

GRADING AND DRAINAGE

NO GRADING IS PROPOSED WITH THIS APPLICATION. NO CHANGES TO THE EXISTING GRADING OF URBANIZED AREAS ARE PROPOSED WITH THIS APPLICATION.



LOTS 8 AND 9 IN BLOCK 11 OF LA JOLLA SHORES, UNIT NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE TENTATIVE MAP NO. 538144, FILED IN THE OFFICE OF THE COUNTY CLERK OF SAN DIEGO COUNTY, DATE & 1925.

ASSESSOR'S PARCEL NUMBER

545-272-15-00

SITE ADDRESS

8111 CAMINO DEL ORO
LA JOLLA, CA 92037

ZONING

LA JOLLA SHORE PLANNED DISTRICT
COMMUNITY PLAN: LA JOLLA
EXISTING AND PROPOSED ZONE: LSPD-MP-7
COASTAL HUNTER LIGHT PARKING IMPROVEMENT
RESIDENTIAL TOWNHOUSE PARKING
CITY COASTAL OVERLAY ZONE

OWNER/APPLICANT

LA JOLLA BEACH AND TOWNS CLUB
WILLIAM J. KELLOGG, PRESIDENT
2000 SPENCER DRIVE
LA JOLLA, CA 92037
TEL: (858) 454-9125
FAX: (858) 456-3805

DEVELOPMENT SUMMARY

- THIS IS AN APPLICATION FOR A TENTATIVE MAP FOR CONDOMINIUM CONVERSION PURSUANT TO SECTION 1460.044 OF THE WILSON-RODGE AND A CITY COASTAL DEVELOPMENT PERMIT.
- THIS IS AN EXISTING RESIDENTIAL DEVELOPMENT.
- ALL STREET IMPROVEMENTS AND UTILITIES ON CAMINO DEL ORO ARE EXISTING AND NO NEW PUBLIC IMPROVEMENTS ARE REQUESTED FOR THIS APPLICATION.
- EXISTING RESIDENTIAL UNITS: 17 (15 RENTAL UNITS & 2 MANAGER'S APARTMENTS)
- PROPOSED RESIDENTIAL CONDOMINIUM UNITS: 14
- EXISTING NUMBER OF LOTS: 2
- PROPOSED NUMBER OF LOTS: 14
- THE APPLICANT REQUESTS A WAIVER FOR THE REQUIREMENT OF PLACING EVIDENCE OF THESE UNITS UNDERGROUND BASED ON CODED, POLICY 200.23, ITEM 11.2 OF THE POLICY STATES THAT A WAIVER MAY BE CONSIDERED FAVORABLE IF THE CONVERSION IS A REQUIREMENT OF A CONDO CONVERSION PERMIT OF AN EXISTING DEVELOPMENT AND THE CONVERSION WOULD NOT REQUIRING A LEGAL EXTENSION TO AN UNDERGROUND FACILITY. IN BUENOS AIRES, PROJECT UNITS FOR A WAIVER.

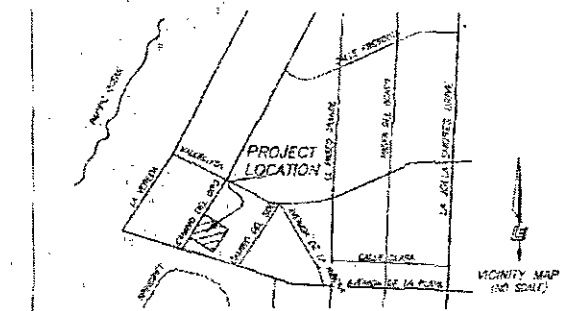
CERTIFICATION AND DECLARATION OF RESPONSIBLE CHARGE

- I, JERRY L. LEBERT, CERTIFY THAT I AM THE REGISTERED/LAND SURVEYOR FOR THIS PROJECT, THAT I HAVE EXERCISED RESPONSIBLE CHARGE OVER THIS SUBMITTAL AS DEFINED IN SECTION 8163 OF THE BUSINESS AND PROFESSIONS CODE.
- I CERTIFY THAT I HAVE PERFORMED REASONABLE RESEARCH TO DETERMINE THE REQUIRED APPROVALS FOR THE PROPOSED PROJECT.
- AS THE ENGINEER/LAND SURVEYOR, I HAVE TAKEN THE SELF-CERTIFICATION OATH AND HAVE BEEN PLACED ON THE APPROVED LIST FOR CONSTRUCTION REVIEW SELF-CERTIFICATION. WITH THE SUBMITTAL, I SUBMIT THE PLANS AND DOCUMENTS SUBMITTED FOR REVIEW AND APPROVAL. I HAVE MET ALL SUBMITTAL REQUIREMENTS PER SECTION 4 OF THE SUBMITTAL MANUAL. I UNDERSTAND IF REQUIRED DOCUMENTS OR PLAN CONTENT IS MISSING, PROJECT REVIEW WILL BE DELAYED.

ENGINEER OF WORK

JOHN D. LEBERT
LEPERT ENGINEERING CORPORATION
5180 COVERGROVE DRIVE, SUITE 205
SAN DIEGO, CA 92122
TEL: (858) 587-2001
FAX: (858) 587-2009

DATE: _____
JOHN D. LEBERT
ACE 2222, EXP. DATE 3-31-2010



PREPARED BY:

NAME: LEPERT ENGINEERING CORPORATION
ADDRESS: 5180 COVERGROVE DRIVE, SUITE 205
SAN DIEGO, CALIFORNIA 92122-2245
PHONE #: (858) 587-2001

PROJECT ADDRESS:

8111 CAMINO DEL ORO
LA JOLLA, CA 92037

PROJECT NAME:

FLATA DE ORO CONDOMINIUMS

SHEET TITLE:

TENTATIVE MAP NO. 538144

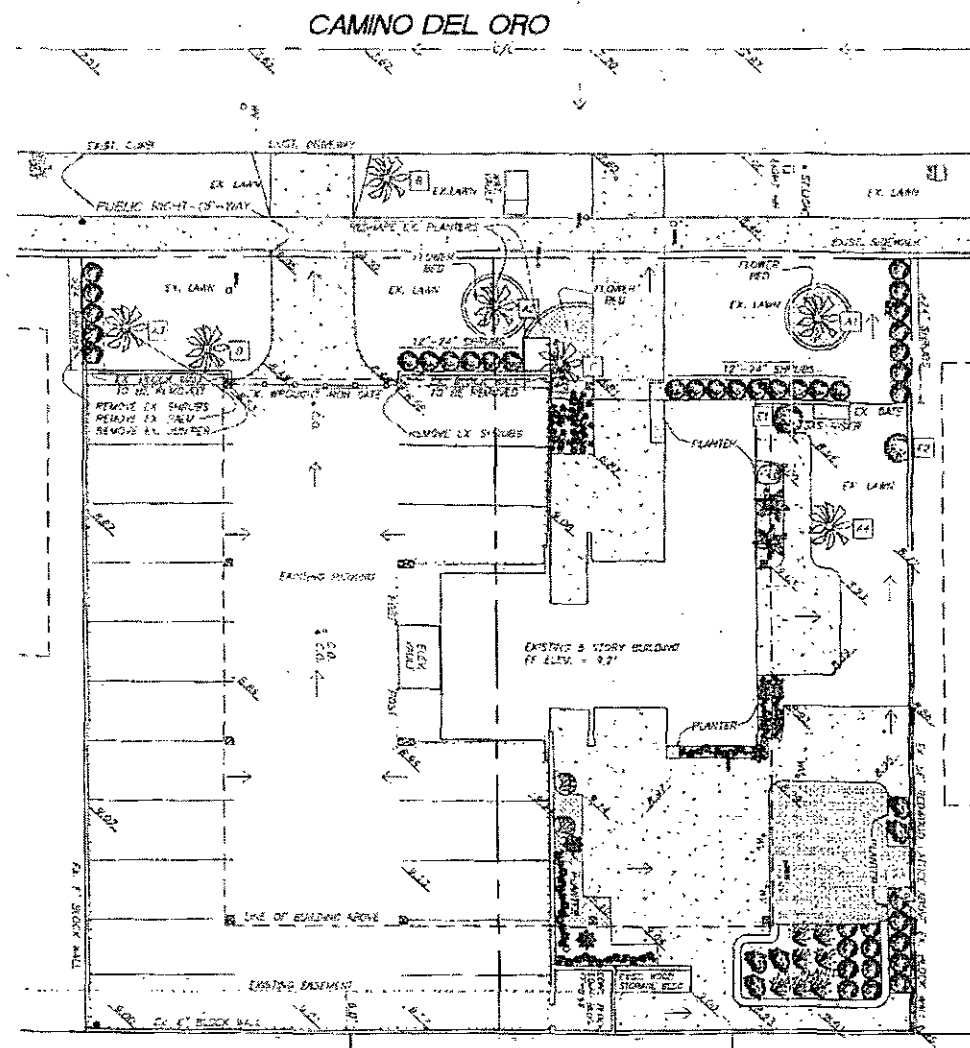
REVISION	DATE
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ORIGIN DATE: 3-15-08

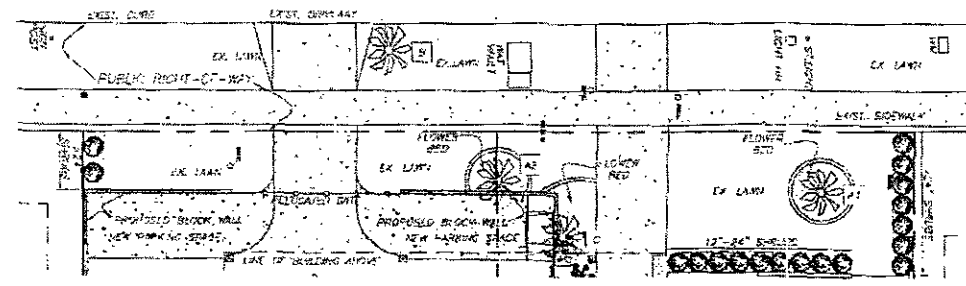
SHEET 1 OF 1

152137

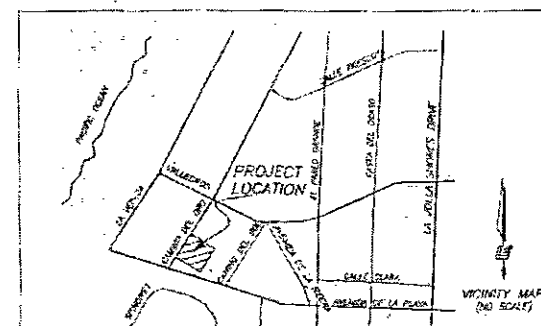
EXISTING LANDSCAPING



PROPOSED LANDSCAPING



DESCRIPTION	EXISTING	PROPOSED
TOTAL PAVEMENT AREA		
CONCRETE	2,126.7 SQ. FT.	2,126.7 SQ. FT.
BRICK PAVING	358.7 SQ. FT.	358.7 SQ. FT.
TOTAL PAVEMENT / PLANTED AREA	1,049.8 SQ. FT.	917.7 SQ. FT.
TOTAL LAWN AREA	1,923.3 SQ. FT.	1,549.9 SQ. FT.
TOTAL UNPAVED AREA	5,496.6 SQ. FT.	5,071.1 SQ. FT.



REVISION 14 _____
REVISION 13 _____
REVISION 12 _____
REVISION 11 _____
REVISION 10 _____
REVISION 9 _____
REVISION 8 _____
REVISION 7 _____
REVISION 6 _____
REVISION 5 _____
REVISION 4 _____
REVISION 3 _____
REVISION 2 _____
REVISION 1 _____

$$\frac{1}{2} \text{ES} \quad \frac{1}{2} \quad \frac{1}{2} \quad \frac{1}{2}$$

000383

PLANNING COMMISSION RESOLUTION NO. XXXX.
TENTATIVE MAP NO. 538144
8111 CAMINO DEL ORO TENTATIVE MAP - PROJECT NO. 152137
DRAFT

WHEREAS, LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Applicant/Subdivider, and JOHN LEPPERT, LEPPERT ENGINEERING COMPANY, Engineer, submitted an application with the City of San Diego for a Tentative Map, No. 538144 to convert 17 existing residential units into 14 condominiums and to waive the requirement to underground existing overhead utilities. The project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The legal description of the property is Lots 8 and 9, Block 13, La Jolla Shores Unit No. 1, Map No. 1913; and

WHEREAS, the Map proposes the subdivision of a .30 acre site into one lot for a 14 unit residential condominium development; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301 (k), of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 14; and

WHEREAS, on February 5, 2009, the Planning Commission of the City of San Diego considered Tentative Map No. 538144, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0240 (underground) of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 538144

1. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).
2. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
3. Each of the tenants of the proposed condominium, project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66427.1(a)).
4. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
5. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
6. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(b)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
7. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(c)).

8. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report.. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).
9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).
10. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (Land Development Code Section 125.0444.c).
11. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).
12. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).
13. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
14. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (Land Development Code Section 144.0504(b)).
15. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).
16. The project has been conditioned that the subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).

17. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.
18. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).
19. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense* in that:

The conversion involves a short span of overhead facility (less than 600 feet in length).
20. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the Planning Commission, Tentative Map No. 538144 including the waiver of the requirement to underground existing overhead utilities, is hereby granted to LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Tentative Map will expire February 5, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. Prior to the issuance of the Final Map, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition
5. The Final Map shall conform to the provisions of Coastal Development Permit No. 538143.
6. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents,

officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant

7. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
 - a. For *existing tenants*, within 10 days of the project application for the *condominium conversion* being deemed complete; or
 - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
8. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
9. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
10. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.
11. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her

respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(d) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

12. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

AFFORDABLE HOUSING

13. Prior to recordation of the Final Map, the Subdivider shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by paying an in-lieu fee of \$124,635.12 dollars (19752 square feet at \$6.31 per square foot.) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee.
14. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Coastal Overlay Zone Affordable Housing Replacement Regulations (Chapter 14, Article 3, Division 8), to the satisfaction of the Development Services Department and the Housing Commission.
15. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
16. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
17. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

ENGINEERING

18. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
19. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
20. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.
21. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

MAPPING

22. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
23. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
24. The Final Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

SEWER AND WATER

30. If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.

LANDSCAPE

31. Prior to recordation of the Parcel Map or Final Map, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.
32. Prior to recordation of the Parcel Map or Final Map, and after Landscape and Irrigation Construction Documents have been approved by Development Services, the subdivider shall install all required landscaping consistent with the approved plans and the Land Development Manual, Landscape Standards.
33. Prior to recordation of the Parcel Map or Final Map, it shall be the responsibility of the Permittee/Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
34. The Landscape Construction Plan shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

INFORMATION:

- The approval of this Tentative Map by the Planning Commission of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF
SAN DIEGO, CALIFORNIA, ON FEBURARY 5, 2009.

By

Helene Deisher
Development Project Manager
Development Services Department

Job Order No. 43-0512

000393

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 43-0512

COASTAL DEVELOPMENT PERMIT NO. 538143
8111 CAMINO DEL ORO TENTATIVE MAP - PROJECT NO. 152137
PLANNING COMMISSION

This Coastal Development Permit No. 538143 is granted by the Planning Commission of the City of San Diego to LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0804. The .30 acre site is located at 8111 Camino del Oro in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project site is legally described as Lots 8 and 9, Block 13, La Jolla Shores Unit No. 1, Map No. 1913.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to convert 17 existing residential units into 14 condominiums and to waive the requirement to underground existing overhead utilities, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 5, 2009, on file in the Development Services Department.

The project shall include:

- a. The subdivision of a 0.30 acre site into one lot for 14 condominiums. No construction is authorized with this permit.
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. 21 Off-street parking spaces;
- d. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s),

conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in

order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

9. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

LANDSCAPE REQUIREMENTS:

10. All existing landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

11. The Owner or Subsequent Owner shall be responsible for the maintenance of all existing landscape and irrigation in the right-of-way consistent with the Land Development Manual Landscape Standards

12. If any existing landscape (including existing or new plantings, hardscape, landscape features, etc.) and/or irrigation indicated on the approved Landscape Development Plan (Exhibit "A") is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than 21 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

14. The Owner/Permittee shall post a copy of the approved discretionary permit or Tentative Map in the sales office for consideration by each prospective buyer.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on February 5, 2009
Resolution NumberXXX.

000397

Coastal Development Permit No. 538143
Date of Approval:

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Helene Deisher
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

PLANNING COMMISSION RESOLUTION NO. XXX
COASTAL DEVELOPMENT PERMIT NO. 538143
8111 CAMINO DEL ORO TENTATIVE MAP - PROJECT NO. 152137
DRAFT

WHEREAS, LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Owner/Permittee, filed an application with the City of San Diego for a permit to convert 17 existing residential units into 14 condominiums and to waive the requirement to underground existing overhead utilities (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 538143) on portions of a 0.30 acre site;

WHEREAS, the project site is located at located 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones;

WHEREAS, the project site is legally described as Lots 8 and 9, Block 13, La Jolla Shores Unit No. 1, Map No. 1913;

WHEREAS, on February 5, 2009, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 538143 pursuant to the Land Development Code of the City of San Diego;

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated February 5, 2009.

FINDINGS: Coastal Development Permit - Section 126.0708

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; and

The 0.30 acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert 17 residential apartments to 14 residential condominium units within one, five-story, 24,185 square foot building. The only other discretionary action proposed is the tentative map for condominium ownership. The proposed residential condominium project will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. There are no public views on Camino Del Oro as identified in the La Jolla Community Plan and Local Coastal Program.

2. The proposed coastal development will not adversely affect environmentally sensitive lands; and

The 0.30 acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert 17 residential apartments to 14 residential condominium units within one, five-story, 24,185 square foot building. The only discretionary action proposed is the condominium ownership. The site has been previously developed and there are no sensitive habitats on the site, nor is it adjacent to the City of San Diego's Multi-Habitat Planning Area. The proposed project for 8111 Camino Del Oro was determined to have no significant environmental effect and was found to be categorically exempt under the California Environmental Quality Act (CEQA). No proposed additions or modifications are proposed, therefore having no adverse affect on environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and

The 0.30 acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert 17 residential apartments to 14 residential condominium units within one, five-story, 24,185 square foot building. The project is located in an area designated as Multi-family Residential at 30-45 dwelling units per acre in the La Jolla Community Plan. The existing development of seventeen units per acre is previously conforming; however the reduction in units would make this project consistent with the existing land use. The project does adhere to community goals since it was originally designed in a manner that does not intrude into any of the physical access ways used by the public and has a harmonious visual relationship between the bulk and sale of the existing structure and the adjacent structures as stated in the adopted Local Coastal Program land use plan.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The 0.30 acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert 17 residential apartments to 14 residential condominium units within one, five-story, 24,185 square foot building. The nearest public road adjacent to this property is La Vereda to the west and Camino Del Sol to the east. This site is approximately one block from the Pacific Ocean. The proposed coastal development conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 538143 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 538143 a copy of which is attached hereto and made a part hereof.

Helene Deisher
Development Project Manager
Development Services

Adopted on: February 5, 2009

Job Order No. 43-0512

cc: Legislative Recorder, Development Services Department

LA JOLLA SHORES PERMIT REVIEW COMMITTEE

Consent June 24, 2008 La Jolla Rec Center, 615 Prospect Street

Attention: Project Manager: Helena Deisher*CAMINO DEL ORO TM***PLAYA DE ORO TENTATIVE MAP**8111 Camino Del Oro
La Jolla, CA 92037

CDP 152137

DPM: Helena Deisher
Agent: John Leppert

PROJECT DESCRIPTION: This project is a condominium conversion, converting the existing 17 residential units into a 17 unit condominium development. No new site development is proposed with this project. The existing 5 story building was constructed in 1965.

Sub Committee Vote:**MOTION:** Naegle: Findings can be made for approval of this project

- 1) Subject to the addition of 2 additional parking spaces as presented using existing driveway and building must be reconfigured to reduce # of units by 3. This will provide Qty. 21 spaces for a Qty. 14 unit condominium; which will meet code.

Motion was made and seconded by Morton to approve project:

Motion: Passed**Vote: 5-0-0**

Signature: (Approved Via E-Mail) *TE* Date: _____
Tony Espinoza
Chair of La Jolla Shores Permit Review Committee

Community Planning Association Trustees on Consent of Sub Committee Review:

MOTION: To accept the recommendation of the committee and approve the Playa de Oro tentative map and forward that recommendation to the City.

Note: The motion is not on the project as proposed, but an alternative to reduce the number of units from 17 to 14 (by combining units to form larger units) and provide 2 additional parking spaces.

Vote: 11-0-1

Signature: *Joseph LaCava* Date: 7-08-2008
Joe LaCava
President of the Community Planning Association

For any questions or concerns regarding the information on this sheet, please contact: C.P.A. (858) 456-7900.

Project Title: PLAYA DE ORO CONDOMINIUMS	Project No. (For City Use Only)
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Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

☐ Corporation ☐ Limited Liability -or- ☐ General) What State? _____ Corporate Identification No. _____
☒ Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached** ☐ Yes ☐ No

Corporate/Partnership Name (type or print): LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: 2000 SPINDRIFT DRIVE City/State/Zip: LA JOLLA / CA / 92037 Phone No: Fax No: 858.454.7126 858.456.3805 Name of Corporate Officer/Partner (type or print): WILLIAM J. KELLOGG Title (type or print): PRESIDENT Signature: Date: 1/29/08 <i>William J. Kellogg</i>	Corporate/Partnership Name (type or print): LA JOLLA BEACH AND TENNIS CLUB, INC. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: 2000 SPINDRIFT DRIVE City/State/Zip: LA JOLLA / CA / 92037 Phone No: Fax No: 858.454.7126 858.456.3805 Name of Corporate Officer/Partner (type or print): WILLIAM J. KELLOGG Title (type or print): PRESIDENT Signature: Date: 1/29/08 <i>William J. Kellogg</i>
<input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: Fax No: Name of Corporate Officer/Partner (type or print): Title (type or print): Signature: Date:	<input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: Fax No: Name of Corporate Officer/Partner (type or print): Title (type or print): Signature: Date:
<input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: Fax No: Name of Corporate Officer/Partner (type or print): Title (type or print): Signature: Date:	<input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: Fax No: Name of Corporate Officer/Partner (type or print): Title (type or print): Signature: Date:

DEVELOPMENT SERVICES
Project Chronology
 8111 Camino Del Oro Tentative Map PTS No. 152137

Date	Action	Description	City Review Time	Applicant Response
3-14-08	First Submittal	Project Deemed Complete		
4-18-08	First Assessment Letter		35	
8-7-08	Second submittal			111
8-28	Second Review Complete		21	
	Misc Issue and scheduling			10
**TOTAL STAFF TIME			208	
TOTAL APPLICANT TIME				120
TOTAL PROJECT RUNNING TIME		From deemed complete date to Planning Commission Hearing	328	

Staff time and applicant response time based on calendar days including holidays



City of San Diego
Development Services
1222 First Ave. • 3rd Floor
San Diego, CA 92101-4154
(619) 446-5210
www.sandiego.gov/development-services

RECEIVED
CITY CLERK'S OFFICE

Development Permit Appeal Application

331
03/30

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Board of Zoning Appeals

SAN DIEGO, CALIF.

- ☐ Appeal of a Hearing Officer Decision to revoke a permit
☒ Process Four Decision - Appeal to City Council

2. Appellant Name Please check one ☐ Applicant ☐ Officially recognized Planning Committee ☒ "Interested Person" (Per M.C. Sec. 113.0103)
Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development,
c/o Cory J. Briggs, Briggs Law Corporation

Address City State Zip Code Telephone
99 East "C" Street, Suite 111, Upland, CA 91786 909-949-7115

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Unknown

4. Project Information

Permit/Approval Being Appealed & Permit/Approval No.:

Date of Decision:

City Project Manager:

152137(8111 Canine Del Oro T.M.)

2/5/09

Helene Deisher

Decision (describe the permit/approval decision):

The Planning Commission approved the application for a tentative map to convert residential units to condominiums without

preparing an initial study or performing other study under the California Environmental Quality Act and in violation of

other applicable laws, including the Subdivision Map Act.

5. Reason for Appeal

- ☒ Factual Error ☒ New Information
☐ Conflict with other matters ☒ City-wide Significance (Process Four decisions only)
☒ Findings Not Supported

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

The Planning Commission erred in approving the project without first preparing an initial study or performing any other study under the California Environmental Quality Act and in violation of San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code § 66412.3. The project does not qualify for exemption under section 15301 of the CEQA

Guidelines. Furthermore, the project does not qualify for exemption due to the cumulative and other potential adverse

environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions

and the serious decline in affordable housing that the City of San Diego is facing. The City also has an independent obligation

to conduct this environmental review under CEQA and the Subdivision Map Act (§ 66474). The opposition letter submitted by

Briggs Law Corporation prior to approval of the project provides additional information that supports this appeal, including but

not limited to the City's inability to make the finding required by Government Code § 66473.5 because the housing element has

become invalid due to the City's failure to revise it lawfully and in a timely manner under Government Code § 65588(e).

Evidence of cumulative impacts and other potential adverse environmental impacts of the conversions may not have been available

to the person(s) on staff who made the determination of exemption or to the public until after the appeal period for the

determination expired.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature Cory J. Briggs

Date February 11, 2009

Note: Faxed appeals are not accepted.

000411

BRIGGS LAW CORPORATION

San Diego Office
3863 Balboa Avenue, Rm. 376
San Diego, CA 92111-2705

Telephone: 858.495.9082
Facsimile: 858.495.9136

Please respond to: Inland Empire Office

Inland Empire Office
99 East C Street, Suite 111
Upland, CA 91786

Telephone: 909.949.7115
Facsimile: 909.949.7121

BLC File #: 1007.98

Planning Commission
City of San Diego
202 C Street
San Diego, CA 92101

February 3, 2009

Re: Project Number: 152137
Project Name: 8111 Camino Del Oro I.M.
Commission Meeting Date: February 9, 2009
Agenda Item: 7

Dear Planning Commission:

On behalf of Citizens for Responsible Equitable Environmental Development and the Affordable Housing Coalition of San Diego County, I am writing to express my clients' opposition to approval of the above-referenced project, which is scheduled to be considered by the Planning Commission on the above-identified date.

My clients oppose approval of the project on the grounds that converting apartments to condominiums is subject to environmental review under the California Environmental Quality Act. The exemptions set forth in Section 15301 of the CEQA Guidelines do not apply to the project. Furthermore, the cumulative and other potential significant impacts of converting apartments to condominiums make the exemption inapplicable. Evidence of the project's cumulative adverse impacts is contained in, among other sources, (i) the City Attorney's memorandum dated November 10, 2005, regarding the applicability of CEQA to condominium conversions; (ii) the City Manager's report no. 05-060; (iii) the City Manager's report no. 05-060 rev.; (iv) the City Manager's report no. 05-106; (v) the City Manager's report no. 05-163; (vi) the City Council's prior resolutions declaring a state of emergency over the lack of affordable housing; and (vii) the City's current housing element (e.g., its comments about the environmental effects of condo conversions and the loss of affordable housing). Additionally, the project should be denied because your action in approving it would violate San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code §§ 66412.3 and 66474 (by not proceeding in the manner prescribed by law, not making all necessary findings, and not supporting the findings with sufficient evidence). Lastly, the project should not be approved because it is inconsistent with the housing element, thus precluding the necessary finding under Government Code § 66473.5; the housing element has not been lawfully revised as required by Government Code § 65588(e)(5) and therefore is invalid. My clients therefore urge the City of San Diego to comply with all applicable laws before approving the project or to deny approval.

Thank you for giving this matter the attention that it deserves.

Sincerely,

BRIGGS LAW CORPORATION


Cory J. Briggs



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit
☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☐ Conditional Use Permit
☐ Variance ☒ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment • ☐ Other _____

Project Title

Project No. For City Use Only

PLAYA DE ORO CONDOMINIUMS

Project Address:

8111 CAMINO DEL ORO, LA JOLLA, CA 92037

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☐ No

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

000414

Project Title: PLAYA DE ORO CONDOMINIUMS	Project No. (For City Use Only)
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Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

☐ Corporation ☐ Limited Liability -or- ☐ General) What State? _____ Corporate Identification No. _____
☒ Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached ☐ Yes ☐ No

Corporate/Partnership Name (type or print):
LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP

☒ Owner ☐ Tenant/Lessee

Street Address:
2000 SPINDRIFT DRIVE

City/State/Zip:
LA JOLLA / CA / 92037

Phone No: 858.454.7126 Fax No: 858.456.3805

Name of Corporate Officer/Partner (type or print):
WILLIAM J. KELLOGG

Title (type or print):
PRESIDENT

Signature : *William J. Kellogg* Date: 1/29/08

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):
LA JOLLA BEACH AND TENNIS CLUB, INC.

☒ Owner ☐ Tenant/Lessee

Street Address:
2000 SPINDRIFT DRIVE

City/State/Zip:
LA JOLLA / CA / 92037

Phone No: 858.454.7126 Fax No: 858.456.3805

Name of Corporate Officer/Partner (type or print):
WILLIAM J. KELLOGG

Title (type or print):
PRESIDENT

Signature : *William J. Kellogg* Date: 1/29/08

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

DATE REPORT ISSUED: REPORT NO.: PC-09-001
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Development Services Department
SUBJECT: 8111 Camino Del Oro Tentative Map, Project Number 152137
COUNCIL DISTRICT: 1
STAFF CONTACT: Helene Deisher, (619) 446-5223, hdeisher@sanidiego.gov

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve Coastal Development Permit No. 538144, Tentative Map No. 538143 and waive the requirement to underground existing overhead utilities to convert seventeen existing residential units to fourteen residential condominiums at 8111 Camino Del Oro, within the La Jolla Shores Planned District.

STAFF RECOMMENDATION: DENY the appeal and uphold the Planning Commission's decision to APPROVE the Coastal Development Permit and Tentative Map, including the request to waive the requirement to underground existing overhead utilities.

EXECUTIVE SUMMARY:

Coastal Development Permit No. 538144, Tentative Map No. 538143, including the request to waive the requirement to underground existing overhead utilities, to convert seventeen existing residential units to fourteen condominiums was approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment I). This is a project appeal and not an environmental appeal; therefore, the environmental issues raised are not relevant to this appeal. The project was determined to be exempt from review under the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15301 on March 28, 2008. An appeal for the CEQA determination was previously made and the City Council denied the CEQA appeal on September 9, 2008 (R304104).

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA-related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* This project has been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although the project does not comply with the current requirements for new

construction, the project is allowed to maintain their current configuration because no additional units or expansion are proposed and it is considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *"The decisionmaker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources."* This condominium project was approved by the Planning Commission, who was the decisionmaker required to make this finding. Staff believes the intent of this required finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City's inclusionary housing requirements. The project would comply with the City's requirements either by paying an in-lieu fee or by providing onsite affordable housing. This project is not requesting a variance or waiver from the inclusionary housing requirements; therefore, these code sections are not relevant to this approved condominium conversion project.

The appeal also asserts that the Housing Element of the City's General Plan has become invalid due to the City's failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. This project was approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City's Housing Element has never been considered invalid and would not be grounds for denial of this project.

FISCAL CONSIDERATIONS:

None. All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 24, 2008, the La Jolla Shores Permit Review Committee voted 5-0-0 to approve the project with the reduction of units to fourteen, and to maintain twenty one parking spaces. On July 8, 2008, the La Jolla Shores Community Planning Association voted to accept the committee recommendation with a vote of 11-0-1.

On February 5, 2009, the Planning Commission voted 5-0-0 to approve the project.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Owners: La Jolla Beach and Tennis Club Partners CLP, Applicant: Leppert Engineering Corp.; Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Kelly Broughton
Director, Development Services Department

William Anderson
Deputy Chief Operating Officer:

000417

Executive Director of City Planning and
Development

ATTACHMENTS:

1. Briggs appeal application
2. Briggs project opposition letter to Planning Commission
3. Draft City Council Tentative Map Resolution
4. Draft City Council Permit and Permit Resolution
5. Planning Commission Report No. PC-08-124, Issued October 30, 2008



City of San Diego
Development Services
1222 First Ave. • 3rd Floor
San Diego, CA 92101-4154
(619) 446-5210
www.sandiego.gov/development-services

RECEIVED
CITY CLERK'S OFFICE

Development Permit Appeal Application

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Board of Zoning Appeals
☒ Appeal of a Hearing Officer Decision to revoke a permit
☒ Process Four Decision - Appeal to City Council

2. Appellant Name Please check one ☐ Applicant ☐ Officially recognized Planning Committee ☒ "Interested Person" (Per M.C. Sec. 113.0103)
Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development,
c/o Cory J. Briggs, Briggs Law Corporation

Address City State Zip Code Telephone
99 East "C" Street, Suite 111, Upland, CA 91786 909-949-7115

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Unknown

4. Project Information

Permit/Approval Being Appealed & Permit/Approval No.:

Date of Decision:

City Project Manager:

152137(8111 Camino Del Oro T.M.)

2/5/09

Helene Deisher

Decision (describe the permit/approval decision):

The Planning Commission approved the application for a tentative map to convert residential units to condominiums without preparing an initial study or performing other study under the California Environmental Quality Act and in violation of

other applicable laws, including the Subdivision Map Act.

5. Reason for Appeal

- ☒ Factual Error ☒ New Information
☐ Conflict with other matters ☒ City-wide Significance (Process Four decisions only)
☒ Findings Not Supported

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

The Planning Commission erred in approving the project without first preparing an initial study or performing any other study under the California Environmental Quality Act and in violation of San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code § 66412.3. The project does not qualify for exemption under section 15301 of the CEQA Guidelines. Furthermore, the project does not qualify for exemption due to the cumulative and other potential adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing. The City also has an independent obligation to conduct this environmental review under CEQA and the Subdivision Map Act (§ 66474). The opposition letter submitted by Briggs Law Corporation prior to approval of the project provides additional information that supports this appeal, including but not limited to the City's inability to make the finding required by Government Code § 66473.5 because the housing element has become invalid due to the City's failure to revise it lawfully and in a timely manner under Government Code § 65588(e). Evidence of cumulative impacts and other potential adverse environmental impacts of the conversions may not have been available to the person(s) on staff who made the determination of exemption or to the public until after the appeal period for the determination expired.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature Cory J. Briggs

Date February 11, 2009

Note: Faxed appeals are not accepted.

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BRIGGS LAW CORPORATION

San Diego Office
5663 Balboa Avenue, Rm. 376
San Diego, CA 92111-2705

Telephone: 658.495.9082
Fax: 658.495.9138

Please respond to: Inland Empire Office

Inland Empire Office
99 East C Street, Suite 111
Upland, CA 91786

Telephone: 909.929.7115
Fax: 909.949.7121

BLC File #: 1007.95

Planning Commission
City of San Diego
202 C Street
San Diego, CA 92101

February 3, 2009

Re: Project Number: 152137
Project Name: 8111 Camino Del Oro T.M.
Commission Meeting Date: February 9, 2009
Agenda Item: 7

Dear Planning Commission:

On behalf of Citizens for Responsible Equitable Environmental Development and the Affordable Housing Coalition of San Diego County, I am writing to express my clients' opposition to approval of the above-referenced project, which is scheduled to be considered by the Planning Commission on the above-identified date.

My clients oppose approval of the project on the grounds that converting apartments to condominiums is subject to environmental review under the California Environmental Quality Act. The exemptions set forth in Section 15301 of the CEQA Guidelines do not apply to the project. Furthermore, the cumulative and other potential significant impacts of converting apartments to condominiums make the exemption inapplicable. Evidence of the project's cumulative adverse impacts is contained in, among other sources, (i) the City Attorney's memorandum dated November 10, 2005, regarding the applicability of CEQA to condominium conversions; (ii) the City Manager's report no. 05-060; (iii) the City Manager's report no. 05-060 rev.; (iv) the City Manager's report no. 05-106; (v) the City Manager's report no. 05-163; (vi) the City Council's prior resolutions declaring a state of emergency over the lack of affordable housing; and (vii) the City's current housing element (e.g., its comments about the environmental effects of condo conversions and the loss of affordable housing). Additionally, the project should be denied because your action in approving it would violate San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code §§ 66412.3 and 66474 (by not proceeding in the manner prescribed by law, not making all necessary findings, and not supporting the findings with sufficient evidence). Lastly, the project should not be approved because it is inconsistent with the housing element, thus precluding the necessary finding under Government Code § 66473.5; the housing element has not been lawfully revised as required by Government Code § 65588(e)(5) and therefore is invalid. My clients therefore urge the City of San Diego to comply with all applicable laws before approving the project or to deny approval.

Thank you for giving this matter the attention that it deserves.

Sincerely,

BRIGGS LAW CORPORATION

Cory J. Briggs
Cory J. Briggs

CITY COUNCIL RESOLUTION NOXXX
TENTATIVE MAP NO. 538144
8111 CAMINO DEL ORO TENTATIVE MAP - PROJECT NO. 152137
DRAFT

WHEREAS, LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Applicant/Subdivider, and JOHN LEPPERT, LEPPERT ENGINEERING COMPANY, Engineer, submitted an application with the City of San Diego for a Tentative Map, No. 538144 to convert 17 existing residential units into 14 condominiums and to waive the requirement to underground existing overhead utilities. The project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The legal description of the property is Lots 8 and 9, Block 13, La Jolla Shores Unit No. 1, Map No. 1913; and

WHEREAS, the Map proposes the subdivision of a .30 acre site into one lot for a 14 unit residential condominium development; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301 (k), of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 14; and

WHEREAS, on February 5, 2009, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 538144 and Tentative Map No. 538143 pursuant to the Land Development Code of the City of San Diego and approved the project

WHEREAS, on February 9, 2009, Cory Briggs appealed the project to the City Council;
NOW THEREFORE

WHEREAS, on March 30, 2009, the City Council of the City of San Diego considered Tentative Map No. 538144, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0240 (underground) of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all

interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same;

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 538144

1. **The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).**

The proposed subdivision of an existing seventeen unit apartment complex to fourteen condominium ownership interests would comply with the development regulations of the underlying MF2 zone and all of the applicable development regulations of the Land Development Code. No deviation or variance is requested with this application. No construction is approved or requested with this application.

2. **The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).**

The proposed project is a subdivision of a seventeen unit apartment complex to fourteen condominium ownership interests. The project is located within the La Jolla Community Plan which designates the site for multifamily development. The proposed subdivision complies with the policies, goals, and objectives of the applicable land use plan. The existing development was previously approved and permitted pursuant to the zoning and development regulations at the time of construction. The project will reduce the number of dwelling units by three, therefore there is not increase in density or intensity with the conversion of apartment units to condominium ownership and therefore the project does not increase impacts to public services or fiscal or environmental resources.

3. **Each of the tenants of the proposed condominium, project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66427.1(a)).**

A signed affidavit has been provided to the Development Services Department identifying each of the tenants of the proposed project and stating each tenant received, pursuant to State Map Action Section 66452.9, written notification of intention to convert. This notice was sent at least 60 days prior to filing for the map on October 7, 2008.

4. **The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).**

Condition No.8 of this Resolution requires that the Subdivider give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.

5. **The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).**

Condition No. 9 of this Resolution requires that the Subdivider give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request.

6. **The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(b)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.**

Condition No. 12 of this Resolution requires that the Subdivider must provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act. Further, if the subdivider chooses to provide affordable housing units, Condition 14 requires that the Subdivider enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.

7. **The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(c)).**

Condition No. 10 of this Resolution requires that the Subdivider give each of the tenants of the proposed condominium project 180 days' written notice of intention

to convert prior to termination of tenancy due to the conversion or proposed conversion.

8. **The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report.. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).**

Condition number 11 requires the Subdivider give each of the tenants notification of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).

9. **The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).**

This project is privately financed and no funds were obtained from a governmental agency to provide for elderly, disabled, or low income housing.

10. **For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (Land Development Code Section 125.0444.c).**

This project was not developed to provide housing for the elderly, disabled or to provide low income housing.

11. **Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).**

Condition No. 7(a) of this Resolution requires that each of the tenants of the proposed project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete. A Notice of Application which identifies the project location and describes the proposed conversion was mailed to each tenant on April 19, 2008.

12. **The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).**

Condition 7(b) of this resolution requires that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete

13. **The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).**

Condition 16 of this resolution requires that the subdivider give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property.

14. **A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (Land Development Code Section 144.0504(b)).**

A Building Conditions Report has been prepared for this project by Greg L. Gavasse, P.E., of Land America in accordance with the Land Development Manual and reviewed for compliance with the Condominium Conversion Regulations.

15. **The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).**

Condition 17 of this resolution requires that the subdivider provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account

16. **The project has been conditioned that the subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).**

Condition 18 of this resolution requires that the subdivider provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion.

17. **The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.**

Conditions 19 through 22:

The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.

Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.

Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

18. **The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).**

Condition Number 13 includes the Affordable Housing conditions that would be required of this development to comply with the City of San Diego Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by paying an in-lieu fee of \$124,635.12 (19752 square feet @6.31) OR by

entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee

19. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense* in that:

- a. The conversion involves a short span of overhead facility (less than 600 feet in length).
- b. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.

The conversion involves a short span of overhead facility (less than 600 feet in length).

20. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

The above findings are supported by the administrative record for this project including all review documentation, maps and the Exhibit "A" drawing dated February 5, 2009.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 538144 including the waiver of the requirement to underground existing overhead utilities, is hereby granted to LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Tentative Map will expire March 30, 2012.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. Prior to the issuance of the Final Map, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition

5. The Final Map shall conform to the provisions of Coastal Development Permit No. 538143.
6. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.
7. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
 - a. For existing tenants, within 10 days of the project application for the *condominium conversion* being deemed complete; or
 - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
8. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
9. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
10. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of

services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.

11. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(d) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.
12. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

AFFORDABLE HOUSING

13. Prior to recordation of the Final Map, the Subdivider shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by paying an in-lieu fee of \$124,635.12 dollars (19752 square feet at \$6.31 per square foot.) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee.
14. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Coastal Overlay Zone Affordable Housing Replacement Regulations (Chapter 14, Article 3, Division 8), to the satisfaction of the Development Services Department and the Housing Commission.
15. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
16. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
17. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

18. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.

ENGINEERING

19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
21. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.
22. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

MAPPING

23. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
24. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
25. The Final Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle

of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

SEWER AND WATER

- 30. If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.

LANDSCAPE

- 31. Prior to recordation of the Parcel Map or Final Map, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.
- 32. Prior to recordation of the Parcel Map or Final Map, and after Landscape and Irrigation Construction Documents have been approved by Development Services, the subdivider shall install all required landscaping consistent with the approved plans and the Land Development Manual, Landscape Standards.
- 33. Prior to recordation of the Parcel Map or Final Map, it shall be the responsibility of the Permittee/Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
- 34. The Landscape Construction Plan shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

INFORMATION:

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SAN DIEGO,
CALIFORNIA, ON MARCH 30, 2009.

By

Helene Deisher
Development Project Manager
Development Services Department

Job Order No. 43-0512

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 43-0512

COASTAL DEVELOPMENT PERMIT NO. 538143
8111 CAMINO DEL ORO TENTATIVE MAP - PROJECT NO. 152137
CITY COUNCIL

This Coastal Development Permit No. 538143 is granted by the Planning Commission of the City of San Diego to LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0804. The .30 acre site is located at 8111 Camino del Oro in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project site is legally described as Lots 8 and 9, Block 13, La Jolla Shores Unit No. 1, Map No. 1913.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to convert 17 existing residential units into 14 condominiums and to waive the requirement to underground existing overhead utilities, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 30, 2009, on file in the Development Services Department.

The project shall include:

- a. The subdivision of a 0.30 acre site into one lot for 14 condominiums. No construction is authorized with this permit.
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. 21 Off-street parking spaces;
- d. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s),

conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in

order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

9. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, *including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision.* The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

LANDSCAPE REQUIRMENTS:

10. All existing landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

11. The Owner or Subsequent Owner shall be responsible for the maintenance of all existing landscape and irrigation in the right-of-way consistent with the Land Development Manual Landscape Standards

12. If any existing landscape (including existing or new plantings, hardscape, landscape features, etc.) and/or irrigation indicated on the approved Landscape Development Plan (Exhibit "A") is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than 21 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

14. The Owner/Permittee shall post a copy of the approved discretionary permit or Tentative Map in the sales office for consideration by each prospective buyer.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on March 30, 2009 Resolution
Number

000439

Coastal Development Permit No. 538143
Date of Approval:

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Helene Deisher
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

CITY COUNCIL RESOLUTION NO. XXX
COASTAL DEVELOPMENT PERMIT NO. 538143
8111 CAMINO DEL ORO TENTATIVE MAP - PROJECT NO. 152137
DRAFT

WHEREAS, LA JOLLA BEACH AND TENNIS CLUB PARTNERS, CLP, Owner/Permittee, filed an application with the City of San Diego for a permit to convert 17 existing residential units into 14 condominiums and to waive the requirement to underground existing overhead utilities (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 538143) on portions of a 0.30 acre site;

WHEREAS, the project site is located at located 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones;

WHEREAS, the project site is legally described as Lots 8 and 9, Block 13, La Jolla Shores Unit No. 1, Map No. 1913;

WHEREAS, on February 5, 2009, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 538143 pursuant to the Land Development Code of the City of San Diego and approved the project;

WHEREAS, on February 9, 2009 Cory Briggs appealed the project to the City Council, NOW,
THEREFORE

BE IT RESOLVED by the City Council of the City of San Diego as follows:

That the City Council adopts the following written Findings, dated March 30, 2009.

FINDINGS: Coastal Development Permit - Section 126.0708

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; and

The 0.30 acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert 17 residential apartments to 14 residential condominium units within one, five-story, 24,185 square foot building. The only other discretionary action proposed is the tentative map for condominium ownership. The proposed residential condominium project will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. There are no public views on Camino Del Oro as identified in the La Jolla Community Plan and Local Coastal Program.

2. The proposed coastal development will not adversely affect environmentally sensitive lands; and

The 0.30 acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert 17 residential apartments to 14 residential condominium units within one, five-story, 24,185 square foot building. The only discretionary action proposed is the condominium ownership. The site has been previously developed and there are no sensitive habitats on the site, nor is it adjacent to the City of San Diego's Multi-Habitat Planning Area. The proposed project for 8111 Camino Del Oro was determined to have no significant environmental effect and was found to be categorically exempt under the California Environmental Quality Act (CEQA). No proposed additions or modifications are proposed, therefore having no adverse affect on environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and

The 0.30 acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert 17 residential apartments to 14 residential condominium units within one, five-story, 24,185 square foot building. The project is located in an area designated as Multi-family Residential at 30-45 dwelling units per acre in the La Jolla Community Plan. The existing development of seventeen units per acre is previously conforming; however the reduction in units would make this project consistent with the existing land use. The project does adhere to community goals since it was originally designed in a manner that does not intrude into any of the physical access ways used by the public and has a harmonious visual relationship between the bulk and sale of the existing structure and the adjacent structures as stated in the adopted Local Coastal Program land use plan.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The 0.30 acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 Zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert 17 residential apartments to 14 residential condominium units within one, five-story, 24,185 square foot building. The nearest public road adjacent to this property is La Vereda to the west and Camino Del Sol to the east. This site is approximately one block from the Pacific Ocean. The proposed coastal development conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

000443

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council, Coastal Development Permit No. 538143 is hereby GRANTED by the City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 538143 a copy of which is attached hereto and made a part hereof.

Helene Deisher
Development Project Manager
Development Services

Adopted on: March 30, 2009

Job Order No. 43-0512

cc: Legislative Recorder, Development Services Department

000445



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: January 29, 2009

REPORT NO. PC-09-001

ATTENTION: Planning Commission, Agenda of February 5, 2009

SUBJECT: 8111 CAMINO DEL ORO TENTATIVE MAP
PROJECT NO. 152137 - PROCESS FOUR

OWNER/

APPLICANT: La Jolla Beach and Tennis Club Partners, CLP

SUMMARY

Issue(s): Should the Planning Commission approve the conversion 17 residential units to 14 residential condominium units and waive the requirement to underground existing overhead utilities on a 0.30 acre site located at 8111 Camino Del Oro within the La Jolla Shores Planned District of the La Jolla Community Plan area?

Staff Recommendation:

1. **APPROVE** Coastal Development Permit No. 538144
2. **APPROVE** Tentative Map Waiver No. 538143
3. **APPROVE** the request to waive the requirements to underground existing utilities.

Community Planning Group Recommendation: On June 24, 2008, the La Jolla Shores Permit Review Committee voted 5-0-0 to approve the project with the reduction of units to fourteen, and to maintain twenty one parking spaces. On July 8, 2008, the La Jolla Shores Community Planning Association voted to accept the committee recommendation with a vote of 11-0-1 (Attachment)



Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15301 on March 28, 2008. An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on September 9, 2008 (R-304104). The scope of the subject hearing only includes the project, and not the environmental determination.

Fiscal Impact Statement: None with this action. All costs associated with this permit are paid by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: With the proposed conversion of 17 existing apartment units reduced to 14 condominium units, there would be loss of 17 rental units and a gain of 14 for sale units. This Tentative Map was deemed complete subsequent to February 7, 2004, and therefore is subject to the Inclusionary Housing requirements.

BACKGROUND

The La Jolla Community Plan designates the site for Multi-family Residential at 30-45 dwelling units per acre which would permit 9-14 units on this 0.30 acre site (Attachment). The 0.30 acre site has been developed with 17 units and has previously conforming rights to be maintained as such. The development site is located at 8111 Camino Del Oro in the MF-2 zone in the La Jolla Shores Planned District within the La Jolla Community Plan area. The site is surrounded by multi-family residential development.

The existing development was constructed in 1965 when the site was zoned R-4. At the time the property was developed the approved construction met all current regulations. The site is presently improved with one five story building containing a total of seventeen residential units; sixteen two bedroom and one, one bedroom unit. The original development provided nineteen parking spaces.

The development complied with the zoning and development regulations in effect at the time of construction. No Building or Zoning Code violations are recorded against the property. The project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code.

This Tentative Map project is subject to the current condominium conversion regulations and as proposed meets all the required regulations.

DISCUSSION

Project Description:

The current application proposes a Tentative Map, a Coastal Development Permit and a waiver to underground existing overhead utilities to convert seventeen existing residential units to fourteen condominium units. Physical changes to the developed site are limited to internal improvements in order to reduce the existing number of units from seventeen units to fourteen two bedroom units. The final development will have six, two-bedroom units at 1,011 square feet, six, two-bedroom units at 1,458 square feet and two, two-bedroom units at 2,469 square feet. The existing onsite parking will also be modified to provide twenty one standard parking spaces for the development as required by the current condominium regulations. The reduction of the existing seventeen units to fourteen units occurred to comply with the existing parking regulations and to maintain the existing landscaping.

Section 125.0410 of the San Diego Municipal Code (SDMC) requires a Tentative Map (Attachment) be processed for the subdivision of land. According to SDMC §125.0440 and §125.0444, Findings for Tentative Maps and for Condominium Conversions, the decision-maker may approve a Tentative Map for the purposes of the conversion of residential property into a condominium project if the decision-maker finds the proposed conversion complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code. Section 126.0701 of the San Diego Municipal Code (SDMC) requires a Coastal Development Permit be processed for any development in the Coastal Zone. The subdivision of land is deemed to be development and a Coastal Development Permit is required. Staff has reviewed the proposed condominium conversion and determined it complies with both the Subdivision Map Act and San Diego Municipal Code.

San Diego Municipal Code Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights of way. City staff has determined the underground waiver request qualifies under the guidelines of Council Policy 600-25, *Underground Conversion of Utility Lines at the Developer's Expense*, in that the conversion is a requirement of a condominium conversion of an existing development and the conversion involves a short span of overhead facilities less than a full block in length, the conversion would represent an isolated undergrounding with a minimum probability of extension in the future, and the conversion would not represent a logical extension to an undergrounding facility. The applicant would be required to underground any new service run to any new or proposed structures within the subdivision per Condition Number 6 of the draft Tentative Map Resolution and Condition 11 of the Coastal Development Permit (Attachment).

Overhead utilities are present along the rear eastern property line with one existing power pole serving adjacent properties. Neighboring sites adjacent from the subject property receive electrical, telephone and/or cable service from these overhead lines. Undergrounding those services would disrupt properties not included in the proposed project. The City's

Undergrounding Master Plan for Fiscal Year 2007 designates the site within Block 1J, and that funding was allocated in 2006. Undergrounding is scheduled for the area June 29, 2009 through June 29, 2012. (Attachment).

The proposed condominium conversion is subject to the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). Prior to issuance of the final map, the project is conditioned to pay an in-lieu fee of \$124,635 (19752 square feet @\$6.31 per square foot) or enter into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee.

Conclusion:

Staff has reviewed the request for a Tentative Map, Coastal Development Permit and the waiver to underground existing overhead utilities for the conversion of seventeen residential units to fourteen condominium units and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating the requested approvals. Staff has provided draft findings to support approval of all actions and recommends approval of the project as proposed to the Planning Commission.

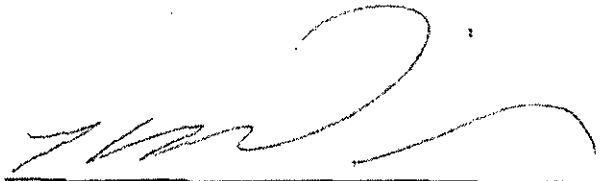
ALTERNATIVE

1. APPROVAL of Tentative Map No. 538144, Coastal Development Permit No. 538143 and the waiver of the requirement to underground existing adjacent utilities, with modifications.
2. DENIAL of Tentative Map No. 538144, Coastal Development Permit No. 538143 and the waiver of the requirement to underground existing adjacent utilities, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Helene Deisher
Project Manager
Development Services Department

BROUGHTON/HRD

000449



THE CITY OF SAN DIEGO
MAYOR JERRY SANDERS

MEMORANDUM

DATE: March 30, 2009
TO: City Council
FROM: Helene Deisher
SUBJECT: Project Appeal, 8111 Camino Del Oro Tentative Map -PTS 152137

Correction to the Planning Commission vote on February 5, 2009. The Executive Summary states the Planning Commission Vote was 5-0-0. The vote should be corrected to The Planning Commission voted to approve the project 6-0-1.

DETERMINATION OF: ENVIRONMENTAL EXEMPTION

Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

C00451

Agency: CITY OF SAN DIEGO

PROJECT NO.: 152137

DATE: March 28, 2008

Action/Permit(s): Coastal Development Permit and Tentative Map (Process 4)

Description of Activity: **8111 Camino Del Oro TM.** A Coastal Development Permit and Tentative Map to convert 17 existing residential units to condominiums on a 0.30-acre site, and a waiver to waive the requirements for the undergrounding of existing overhead utilities. The project site is located in the MF-2 (Multi-Family) Zone in the La Jolla Shores Planned District within the La Jolla Community Plan Area, Local Coastal Program Land Use Plan, Coastal Overlay Zone (Non-Appealable, Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone, and Residential Tandem Parking Overlay Zone.

Location of Activity: 8111 Camino Del Oro, La Jolla, CA 92037; Lots 8 and 9 in Block 13 of La Jolla Shores Unit No.1, according to Map thereof No. 1913 (APN 346-272-15)

☐ This activity is **EXEMPT FROM CEQA** pursuant to:

☐ Section 15060(b)(3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378).

☒ This project is **EXEMPT FROM CEQA** pursuant to State CEQA Guidelines Section checked below:

**ARTICLE 19 of GUIDELINES
CATEGORICAL EXEMPTIONS**
(Incomplete list)

**ARTICLE 18 of GUIDELINES
STATUTORY EXEMPTIONS**
(Incomplete list)

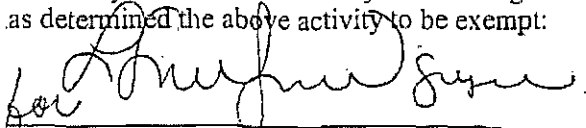
Sec.	Short Name
<input checked="" type="checkbox"/> 15301 1	Existing Facilities
<input type="checkbox"/> 15302 2	Replacement or Reconstruction
<input type="checkbox"/> 15303 3	New Construction or Conversion of Small Structures
<input type="checkbox"/> 15304 4	Minor Alterations to Land
<input type="checkbox"/> 15305 5	Minor Alterations in Land Use Limitations
<input type="checkbox"/> 15306 6	Information Collection
<input type="checkbox"/> 15311 11	Accessory Structures
<input type="checkbox"/> 15312 12	Surplus Government Property Sales
<input type="checkbox"/> 15315 15	Minor Land Divisions
<input type="checkbox"/> 15317 17	Open Space Contracts or Easements
<input type="checkbox"/> 15319 19	Annexation of Existing Facilities and Lots for Exempt Facilities
<input type="checkbox"/> 15325 25	Transfer of Ownership of Interest in Land to Preserve Open Space
<input type="checkbox"/> 15332	In-Fill Development

Sec.	Short Name
<input type="checkbox"/> 15261	Ongoing Project
<input type="checkbox"/> 15262	Feasibility and Planning Studies
<input type="checkbox"/> 15265	Adoption of Coastal Plans and Programs
<input type="checkbox"/> 15268	Ministerial Projects
<input type="checkbox"/> 15269	Emergency Projects
<input type="checkbox"/> Other	

It is hereby certified that the City of San Diego has determined the above activity to be exempt:

Distribution:

Exemption file
Project Manager


Martha Blake, Senior Planner, AICP
Environmental Analysis Section



THE CITY OF SAN DIEGO

Date of Notice: March 28, 2008

**NOTICE OF RIGHT TO APPEAL
ENVIRONMENTAL DETERMINATION**
DEVELOPMENT SERVICES DEPARTMENT
Job Order No. 43-0512

PROJECT NAME/NUMBER: 8111 Camino Del Oro TM, Project No. 152137

COMMUNITY PLAN AREA: La Jolla Shores Planned District within the La Jolla Community Plan Area

COUNCIL DISTRICT: 1

LOCATION: 8111 Camino Del Oro, La Jolla, CA 92037; Lots 8 and 9 in Block 13 of La Jolla Shores Unit No.1, according to Map thereof No. 1913 (APN 346-272-15)

PROJECT DESCRIPTION: A Coastal Development Permit and Tentative Map to convert 17 existing residential units to condominiums on a 0.30-acre site, and a waiver to waive the requirements for the undergrounding of existing overhead utilities. The project site is located in the MF-2 (Multi-Family) Zone in the La Jolla Shores Planned District within the La Jolla Community Plan Area, Local Coastal Program Land Use Plan, Coastal Overlay Zone (Non-Appealable, Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone, and Residential Tandem Parking Overlay Zone.

ENTITY CONSIDERING PROJECT APPROVAL: Planning Commission (Process 4).

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15301(k) [Existing Facilities].

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Development Services Staff.

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The proposed project would not have the potential for causing a significant effect on the environment.

CITY CONTACT: Martha Blake, Senior Planner, AICP
MAILING ADDRESS: 1222 First Avenue, MS 501, San Diego, CA 92101-4153
PHONE NUMBER: (619) 446-5375

000454

On March 28, 2008, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the Senior Planner above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice OR 15 business days from the date of the environmental determination, whichever occurs earlier. Applications to appeal CEQA determinations made by the Planning Commission from a Process Two or Three Appeal under SDMC section 112.0506 must be filed in the Office of the City Clerk within 10 business days from the date of the Planning Commission's decision. The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

000455

MEET

RESOLUTION NUMBER R-304104

DATE OF FINAL PASSAGE SEPTEMBER 9, 2008

8111 CAMINO DEL ORO TENTATIVE MAP, PROJECT
NO. 152137 - ENVIRONMENTAL APPEAL BY CORY J.
BRIGGS, BRIGGS LAW CORPORATION, ON BEHALF OF
AFFORDABLE HOUSING COALITION OF SAN DIEGO
COUNTY AND CITIZENS FOR RESPONSIBLE EQUITABLE
ENVIRONMENTAL DEVELOPMENT.

WHEREAS, on March 14, 2008, La Jolla Beach & Tennis Club Partners, CLP, and La Jolla Beach & Tennis Club, Inc., submitted an application to the City of San Diego for approval of a coastal development permit and tentative map to convert seventeen existing residential units to condominiums, and a waiver from the requirements to underground the existing overheard utilities on a 0.30-acre site located at 8111 Camino Del Oro (hereinafter referred to as the 8111 Camino Del Oro Tentative Map Project); and

WHEREAS, said 8111 Camino Del Oro Tentative Map Project was assigned Project No. 152137 by the City of San Diego Development Services Department; and

WHEREAS, on March 14, 2008, the City of San Diego, through the Development Services Department, determined that the application for Project No. 152137 was complete, and therefore, was deemed complete on said date; and

WHEREAS on March 28, 2008, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the 8111 Camino Del Oro Tentative Map Project is a Class I, Existing Facilities Project, Categorically exempt from the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et seq.) under CEQA Guidelines section 15301(k) (California Code of Regulations sections 15000, 15301(k)); and

000456

WHEREAS, in accordance with CEQA (public Resources Code section 21151(c)), and Section 112.0520 of the San Diego Municipal Code, Cory J. Briggs, Briggs Law Corporation, on behalf of Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development [hereinafter, Appellant] appealed the Environmental Determination for the 8111 Camino Del Oro Tentative Map Project to the Council of the City of San Diego [hereinafter, City Council]; and

WHEREAS, the appeal was set for a public hearing to be conducted by the City Council on September 9, 2008; and

WHEREAS, the issues on appeal were heard, and evidence in the form of testimony and other evidence were accepted into the record, by the City Council on September 9, 2008; and

WHEREAS, the City Council considered, in light of the whole record, the Environmental Determination to Categorically Exempt the 8111 Camino Del Oro Tentative Map Project, the potential environmental impacts associated with the 8111 Camino Del Oro Tentative Map Project, the issues raised on appeal, and the issues brought up at the hearing through testimony and public participation; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council, upon consideration of the whole record before it, that it is determined that the Environmental Determination has been completed in compliance

with CEQA and the CEQA Guidelines, that the declaration reflects the independent judgment of the City of San Diego as Lead Agency, and that the information contained in the Development Services Department staff report and testimony and comments received during the public testimony process have been reviewed and considered by this City Council in connection with the appeal of the Environmental Determination.

BE IT FURTHER RESOLVED, that the City Council finds, based upon the representations of City staff, public testimony and the whole record before it, the following:

1. There is substantial evidence, in light of the whole record, supporting the Environmental Determinations to Categorically Exempt the 8111 Camino Del Oro Tentative Map Project under the provisions of CEQA Guidelines section 15301(k);
2. A fair argument, based upon evidence found in the whole record, has not been established demonstrating the exceptions to the Categorical Exemption, within the meaning of CEQA and CEQA Guidelines (California Code of Regulations sections 15300.2), exist with respect to the 8111 Camino Del Oro Tentative Map Project; and
3. Based upon substantial evidence in light of the whole record, the 8111 Camino Del Oro Tentative Map Project would not result in any significant or potentially significant impacts or effects on the environment.
4. The information provided by the Appellant and his experts are to be excluded from the record.

BE IT FURTHER RESOLVED, that the Environmental Determination of the Development Services Department is sustained, and the appeal of Cory J. Briggs, Briggs Law

000458

(R-2009-391)

Corporation, on behalf of the Affordable Housing Coalition of San Diego County and Citizens
for Responsible Equitable Environmental Development, is denied.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MG:pev
11/10/08
Or.Dept:Clerk
R-2009-391
MMS #6138

000459

February 5, 2009

Planning Commission Minutes

unavailable at this time.

EDWARD F. WHITTIER
MARSHAL A. SCARR
MATTHEW A. PETERSON
LARRY N. MURNANE
CHRISTOPHER J. CONNOLLY
ELOISE H. FEINSTEIN
AMY M. STRIDER
CHRISTOPHER R. MORDY

PETERSON & PRICE

A PROFESSIONAL CORPORATION

LAWYERS

655 West Broadway, Suite 1600
San Diego, CA 92101-8494
Telephone (619) 234-0361
Fax (619) 234-4786

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File No.

7264.001
Via Messenger

March 27, 2009

Council President Ben Hueso and
Members of the City Council
The City of San Diego
202 C Street, 10th Floor
San Diego, CA 92101

Re: Monday March 30, 2009, Agenda Item No. 331,
8111 Camino del Oro Tentative Map, Project No. 152137

Dear President Hueso and
Members of the City Council:

We represent La Jolla Beach and Tennis Club Partners, CLP, with regard to the above referenced matter. The project involves the conversion of 17 expensive rental apartment units into 14 condominiums. The current rents range from a low of \$2,600 a month to a high of \$4,500 a month during the summer. There will be absolutely no impact on the availability of low-income rental units throughout the City of San Diego as a result of this condominium conversion.

This project has been unanimously recommended for approval by the La Jolla Shores Permit Review Committee and has received the unanimous recommendation of approval from the La Jolla Community Planning Association. As a result of those recommendations, the project was modified by reducing the number of units so that the

minimum off-street parking requirements could be met. This condominium conversion will correct a previously conforming (inadequate off-street parking) situation. The project does not require any deviations or variances from the minimum code requirements.

As you know from reading the backup materials, the Planning Commission also unanimously approved this project.

Staff has done an excellent job in responding to the various assertions contained within the appeal. We have also attached a copy of a recent City Attorney Memorandum dated March 20, 2009, which further addresses the CEQA challenge issues associated with the appeal.

As you are aware, there is a CEQA categorical exemption for Existing Facilities. This project qualifies for that categorical exemption. This Condominium Map does not result in any change in the existing use. The existing 17-unit apartment is a multi-family residential use, and the proposed 14-unit condominium project is a multi-family use as allowed by the underlying zoning, the La Jolla Shores Planned District Ordinance, the La Jolla Community Plan, and the City of San Diego Progress Guide and General Plan.

There will be no increase in the intensity of use (in fact, there will be a decrease in intensity from 17 units down to 14 units). There will be no adverse environmental effects associated with the change in the form of ownership of this existing multi-family residential project.

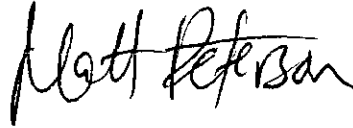
As a result of the unanimous recommendations of approval from the community, (including our client's willingness to address the Community Group recommendations), we

would respectfully request that you affirm the environmental exemption, deny the appeal,
and affirm the decision of the Planning Commission.

Thank you for your consideration of this request.

Sincerely,

PETERSON & PRICE
A Professional Corporation

A handwritten signature in black ink, appearing to read "Matt Peterson", written in a cursive style.

Matthew A. Peterson

cc: Mayor Jerry Sanders
City Attorney Jan Goldsmith
City Clerk Elizabeth Maland
Helene Deisher
Bill Kellogg

Agenc 334- 3/24/09

Office of
The City Attorney
City of San Diego

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MEMORANDUM
MS 59

(619) 533-5800

DATE: March 20, 2009
TO: City Council President Ben Hueso and City Councilmembers
FROM: City Attorney
SUBJECT: Appeals of CEQA Exemptions: Items 332 (Emerald Street TM) and 334 (Biona Drive TM), March 24, 2009 City Council Docket

The purpose of this memorandum is to outline the legal standards the City Council must apply when deciding the appeals of the determinations to categorically exempt the Biona Drive and Emerald Street projects from the California Environmental Quality Act ("CEQA"), Public Resources Code sections 21000 *et seq.*

The Emerald Street and Biona Drive projects are both conversions of existing residential units into condominiums. Those conversions require tentative maps. City staff determined that the projects were exempt from CEQA pursuant to CEQA Guidelines Section 15301,¹ which categorically exempts projects involving "existing facilities" from CEQA. The Planning Commission approved both projects: Emerald Street by a vote of 6-0-1 and Biona Drive by a vote of 5-1-1.

The Planning Commission decisions have been appealed to City Council by the Briggs Law Corporation on behalf of the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development. This memorandum concerns the appeals of the environmental determinations associated with the projects, which have been appealed to the City Council pursuant to CEQA and the San Diego Municipal Code. *See* Cal. Pub. Res. Code § 21151(c);² SDMC § 112.0520. The appeals require that City Council act in a quasi-judicial capacity to resolve the appeals. *See, e.g., Sommerfield v. Helmick*, 57 Cal.App.4th 315, 320 (1997) ("The exercise of discretion to grant or deny a license, permit, or other type of

¹ All references to CEQA Guidelines are to the current California Code of Regulations, Title 14, §§ 15000 *et seq.* The Guidelines are afforded "great weight" by the courts. *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal.3d 376, 391 n. 2(1988).

² Section 21151(c) provides "[i]f a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decisionmaking body, if any."

application is considered quasi-judicial.”). A quasi-judicial action is one where specific standards are applied to existing facts. *Pacifica Corp. v. City of Camarillo*, 149 Cal. App. 3d 168, 175-77 (1983). The legal standards that apply to the CEQA exemption of the Biona Drive and Emerald Street projects are discussed below. The existing facts are those contained in the record before you. The City Council’s task, in resolving the appeals in its quasi-judicial capacity, is to apply the standards discussed below to the facts of the two projects.

ANALYSIS

I. City Council Should First Determine Whether the Existing Facilities Categorical Exemption Applies to the Projects.

A. The Existing Facilities Exemption in CEQA Guidelines Section 15301

CEQA applies to all “discretionary projects proposed to be carried out or approved by public agencies ... unless the project is exempt” pursuant to statute or regulations. Cal. Pub. Res. Code § 21080(a). CEQA directs the Secretary of the California Resources Agency to prepare and adopt “a list of classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt” from CEQA. Cal. Pub. Res. Code § 21084(a). These classes of exempt projects are known as “categorical exemptions.”

CEQA Guidelines Section 15301 categorically exempts from CEQA “existing facilities,” which includes “the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. ... The key consideration is whether the project involves negligible or no expansion of an existing use.” CEQA Guidelines § 15301. One of the examples of existing facilities exempt from CEQA under this Guideline is the “[d]ivision of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt. ...” CEQA Guidelines § 15301(k).

Section 15301 is the categorical exemption relied upon by City staff to exempt the projects before you from CEQA. Here, the Development Services Department has determined that the projects are exempt from further CEQA review under the “existing facilities” categorical exemption described in CEQA Guidelines Section 15301, and specifically reference subdivision (k) as providing the bases for those determinations.

B. City Council Must Determine if there is Substantial Evidence Supporting the Conclusion that the Projects Fall Within the Exemption.

For the existing facilities categorical exemption to apply to the projects there must be substantial evidence in the record that the projects fall within the terms of the exemption. Thus, City Council must determine whether the projects involve “negligible or no expansion of use

beyond that existing at the time of the lead agency's determination." CEQA Guidelines § 15301. To make this determination, City Council should consider whether the existing facilities exemption applies according to its own terms. Thus, for example, the City Council would consider whether each of the projects is a "[d]ivision of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings" and whether no physical changes will occur which are not otherwise exempt. CEQA Guidelines § 15301(k).

For purposes of making this determination, it the City Council should note that "condominium" is defined by state law to mean an "*undivided interest in common* in a portion or real property coupled with a separate interest in space called a unit. . . ." Cal. Civ. Code § 1351(f) (emphasis added). In addition, a "common interest development" includes "[a] condominium project." Cal. Civ. Code §1351 (c)(2). Applying these definitions, the division of apartments, which are multi-family residences, into condominiums constitutes a division into common-interest ownership. Condominium conversions thus constitute the "division of multiple family . . . residences into common-interest ownership," one of the examples of activities that can be categorically exempted from CEQA pursuant to Guideline 15301(k).

II. City Council Should Then Determine Whether or Not Substantial Evidence in the Record Supports a Fair Argument that the Projects will have Significant Cumulative Environmental Impacts such that the Existing Facilities Categorical Exemption Should Not Apply to the Projects.

If City Council determines that the projects meet the definition of the existing facilities categorical exemption, it should then consider whether the appeals have established that there is substantial evidence in the record supporting a fair argument that the projects will nevertheless have significant cumulative environmental impacts. *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* 139 Cal. App. 4th 249, 266 (2006) (a challenge to a categorical exemption must establish, based on substantial evidence in the record, "a fair argument that a project will have a significant effect on the environment").³

The appellant argues that the City may not exempt the two projects from CEQA because an exception in the CEQA Guidelines applies to defeat the exemption. The CEQA Guidelines at Section 15300.2 describes exceptions to the use of categorical exemptions from CEQA. When the conditions of the exception are met, agencies may not use categorical exemptions and must instead conduct further CEQA analysis. CEQA Guidelines § 15300.2.

³ There is a split of authority on the standard of review to determine the applicability of exceptions to a categorical exemption. Some courts apply the ordinary substantial evidence test, deferring to the express or implied findings of the agency which found the categorical exemption applicable. See, e.g., *Fairbank v. City of Mill Valley*, 75 Cal. App. 4th 1243, 1259-1260 (1999). However, the Fourth District Court of Appeal in *Bankers' Hill* has decided that the "fair argument" standard applies to such a case. That ruling is binding on courts in the Fourth District, which includes San Diego. The City does not waive its right to contend otherwise in an appropriate higher court.

Appellant argues that the "cumulative impacts" exception applies to these projects, and forbids the use of the existing facilities categorical exemption. The "cumulative impacts" exception states "[a]ll exemptions . . . are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." CEQA Guidelines § 15300.2(b).

Once an agency has determined that a project falls within an exemption, and that determination is supported by substantial evidence in the record, then the burden shifts to a challenger to produce substantial evidence supporting a fair argument that the projects will nonetheless have significant environmental impacts. *Davidon Homes v. City of San Jose*, 54 Cal. App. 4th 106, 115 (1997). The reason for the shift in the burden is that a project, by virtue of falling within a categorical exemption, is of a type that the Resources Agency has determined does not ordinarily create significant environmental impacts. *Id.* at 116. Thus, in reviewing the appeals, it should be kept in mind that a person asserting that an exception applies to a project bears the burden of "show[ing] that the project is not exempt because it falls within one of the exceptions listed in Guidelines section 15300.2." *Id.* at 115

For the two projects at issue, to find that the cumulative impacts exception applies to prevent the categorical exemption of the projects from CEQA, and thereby grant the appeals, City Council would have to determine that there is substantial evidence in the record to support a fair argument that "the cumulative impact of successive projects of the same type in the same place, over time is significant." CEQA Guidelines § 15300.2(b). As discussed below, those cumulatively significant impacts would have to be environmental, rather than just social or economic impacts. Furthermore, to grant the appeals, the record would have to contain substantial evidence of significant cumulative environmental impacts.

City Council should also note that the City does not need to prepare express "findings of the nonexistence" of exceptions to a categorical exemption. *Association for Protection of Environmental Values in Ukiah v. City of Ukiah*, 2 Cal. App. 4th 720, 732 (1991). Rather, what is required is that City Council "consider the issue of significant effects and cumulative impacts of a proposed project in determining whether the project is exempt from CEQA where there is some information or evidence in the record that the project might have a significant environmental effect." *Id.* (citation omitted).

A. Substantial Evidence

To grant the appeals, there must be *substantial evidence* in the record supporting a fair argument that there will be significant environmental impacts resulting from the projects. Under CEQA, substantial evidence consists of "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." Cal. Pub. Res. Code § 21082.2. In contrast, "[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence." *Id.*; see also Cal. Pub. Res. Code § 21080(e)(2).

B. Fair Argument

To grant the appeals, City Council would have to determine there is substantial evidence supporting a *fair argument* that the projects would cause significant environmental, and not just social or economic impacts. The "fair argument" standard essentially tips the scales in favor of CEQA review when there is substantial evidence on both sides of the question as to whether a project will cause an environmental impact. See *City of Antioch v. City Council*, 187 Cal. App. 3d 1325, 1331 (1986).

C. Significant Environmental Impacts

To grant the appeals, City Council would have to determine there is substantial evidence supporting a fair argument that the projects would cause significant *environmental*, and not just social or economic impacts. CEQA defines "environment" as "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance." Cal. Pub. Res. Code § 21060.5. As a result, CEQA review is not required where the impacts of a project are purely economic or social. CEQA Guidelines §§ 15064(e) and (f) (6); 15131; 15358(b); and 15382. Rather, "[t]here must be a physical change resulting from the project directly or indirectly before CEQA will apply." CEQA Guidelines § 15131 Discussion.

That is not to say that social and economic impacts are never considered in a CEQA analysis. However, if a project creates economic or social impacts that do not in turn create physical impacts, CEQA is not implicated. For example, a potentially "devastating social and academic impact" on "disadvantaged students" and economic impacts on small businesses and property values resulting from a school closure do not constitute environmental impacts requiring CEQA review. *Citizen Action to Serve All Students v. Thornley*, 222 Cal App. 3rd 748, 757-758 (1990). In contrast, the physical impact of "urban decay" that could be caused by economic impacts that new shopping centers could have on existing downtown businesses would require CEQA analysis. *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1204 (2004).

The principle was artfully expressed by one appellate court when it held that the City of San Francisco need not identify specific measures to provide additional parking spaces in an EIR. The court stated:

The social inconvenience of having to hunt for scarce parking spaces is not an environmental impact; the secondary effect of scarce parking on traffic and air quality is. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. An EIR need only address the *secondary physical* impacts that could be triggered by a social impact.

San Franciscans Upholding the Downtown Plan v. City & County of San Francisco, 102 Cal.App.4th 656, 697 (2002) (citing CEQA Guidelines § 15131(a)) (emphasis in

original). In sum, there must be a *causal link* between social and economic impacts and physical impacts to the environment to trigger the need for a CEQA analysis.

CONCLUSION

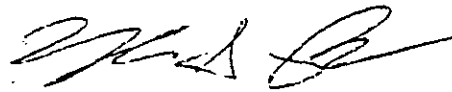
In conclusion, to resolve the appeals of the environmental determinations to categorically exempt the Emerald Street and Biona Drive projects from CEQA, City Council must first determine, based on substantial evidence, whether the projects fall within the "existing facilities" categorical exemption. If City Council cannot make that determination, it must grant the appeals. If City Council determines that the projects fall within the existing facilities categorical exemption, it should then determine whether an exception applies that would defeat the exemption.

This second tier analysis requires the City Council to determine whether there is substantial evidence in the record supporting a fair argument that the projects will nevertheless create significant cumulative environmental impacts. If City Council determines that there is not substantial evidence in the record to support a fair argument that the projects will create significant cumulative environmental impacts, it must deny the appeals. Conversely, if City Council finds that the record contains substantial evidence supporting a fair argument that the projects will create significant cumulative environmental impacts, it must grant the appeals.

To the extent the legal opinion contained in the November 10, 2005 City Attorney memorandum concerning condominium conversions and CEQA conflicts with the contents of this memorandum, that 2005 memorandum is superseded.

JAN GOLDSMITH, City Attorney

By



Keith G. Bauerle
Deputy City Attorney

KGB

cc: Mayor Jerry Sanders
Kelly Broughton, Director, Development Services Department